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ABSTRACT

The series of five extensive oversight hearings specifically focused on Johnson O'Malley funds: education functions: the bill's formula for distribution of education funds: the new education personnel system: the development of regulations relative to academic and living standards for Bureau of Indian Affairs (BIA) schools: the administration of the Indian Education Act (PL 95-561): and the administrative steps taken by the Office of Education to ensure the success of the Impact Aid Program. Testimony was heard from representatives of many government agencies and bodies, including the Department of the Interior, the BIA and BIA Task forces, the Office of Education, and the Office of Indian Affairs. Representatives of various local and national associations such as the North Carolina Commission of Indian Affairs, the National Tribal Chairmen's Association, the National Advisory Council on Indian Education, and the Coalition of Indian Controlled School Boards also testified. In the fourth hearing Indians and representatives of Indian organizations voiced their concerns and comments on the topics under consideration. Tribes sending spokesmen included the Minnesota Chippewa, Cheyenne and Arapaho, Navajo, Confederated Salish and Kootenai Tribes, Duckwater Shoshone, and Sisseton-Wahpeton Sioux. The Jemez and Picuris Pueblos were also represented. The text of PL 95-561 is included. (SB)

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OVERSIGHT HEARINGS ON THE IMPLEMENTATION OF INDIAN EDUCATION AMENDMENTS

ED196612

HEARINGS

BEFORE THE

SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION

OF THE

COMMITTEE ON EDUCATION AND LABOR
HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

FIRST SESSION

HEARINGS HELD IN WASHINGTON, D.C., ON
APRIL 24; MAY 14; JUNE 15; JULY 26 AND 27, 1979

Printed for the use of the Committee on Education and Labor

RC 012429

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OVERSIGHT HEARINGS ON THE IMPLEMENTATION OF INDIAN EDUCATION AMENDMENTS

TUESDAY, APRIL 24, 1979

House of Representatives,
Subcommittee on Elementary, Secondary,
and Vocational Education,
Committee on Education and Labor,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2257, Rayburn House Office Building, Hon. Carl D. Perkins (chairman of the subcommittee) presiding.

Members present: Representatives Perkins, Miller, Kildee, Williams, Goodling, and Hinson.

Staff Present: Alan Lovesee, majority counsel; Jeff McFarland, research assistant; Scherri Tucker, assistant clerk; and Jennifer Vance, minority legislative associate.

Chairman **Perkins**. Let me call the committee to order this morning. I am delighted that Congressman Kildee has assumed the leadership of conducting these oversight hearings, especially since they are necessary to the proper implementation of title XI of Public Law 95-561.

We have had considerable problems insofar as the Indians of the country are concerned for many years. To my way of thinking, we have neglected legislating in the areas that we should have done many years ago. It is never too late. We want to take the advantage of every opportunity to be constructive in legislation and in our oversight where we have already legislated.

I am delighted this morning to welcome the witnesses, the Assistant Secretary for Indian Affairs, Department of the Interior, Mr. Forrest Gerard; Mr. Rick Lavis, Deputy Assistant Secretary for Indian Affairs, Department of the Interior; Mr. Earl Barlow, Director of Indian Education Programs, Bureau of Indian Affairs.

There are also representatives here from Selected Bureau of Indian Affairs Task Forces. I would not know where we could get more able witnesses who know about the Indian problems in the country.

I want to call on Congressman Kildee at this time to chair these hearings. I do want to state that I will work with Congressman Kildee and other members of the committee to make sure that legislation is sponsored that, if necessary, is just and will respond to your welfare.

Thank you very much.

Mr. **Kildee**. Thank you, Mr. Chairman.

Good morning. I am very happy to have been assigned the task by Chairman Perkins to guide the oversight on Indian education and in particular, 95-561.

[The text of title XI of Public Law 95-561 follows:]

TITLE XI—INDIAN EDUCATION

PART A—ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES

AMENDMENT TO PUBLIC LAW 874

SEC. 1101. (a) Effective with respect to fiscal years beginning on or after the date of enactment of this Act, section 3(d)(2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by adding at the end thereof the following new subparagraph:

20 USC 238.

"(D) The amount of the entitlements of any local educational agency under this section for any fiscal year with respect to children who, while in attendance at such agency, resided on Indian lands, as described in clause (A) of section 403(1), shall be the amount determined under paragraph (1) with respect to such children for such fiscal year multiplied by 125 per centum.".

(b) Effective with respect to fiscal years beginning on or after the date of enactment of this Act, section 5(a)(2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is repealed and section 5(a)(1) of such Act is redesignated as section 5(a).

Repeal.
20 USC 240.

(c) Effective with respect to fiscal years beginning on or after the date of enactment of this Act, section 5(b) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by inserting after paragraph (2) (as added by section 1005 of this Act) the following new paragraph:

"(3)(A) Payments of entitlements under section 3(d)(2)(D) of this Act shall be made only to local educational agencies which have, within one year of the date of enactment of this paragraph, or when local educational agencies are formed after such date of enactment, within one year of their formation, established such policies and procedures with respect to information received from Indian parents and tribes as required by this paragraph and which have made assurances to the Commissioner, at such time and in such manner as shall be determined by regulation, that such policies and procedures have been established. The Commissioner shall have the authority to waive this one-year limit for good cause, and in writing to the tribes to be affected.

"(B) Each local educational agency shall establish such policies and procedures as are necessary to insure that—

20 USC 238.

"(i) Indian children claimed under section 3(a) participate on an equal basis in the school program with all other children educated by the local educational agency;

"(ii) applications, evaluations, and program plans are adequately disseminated to the tribes and parents of Indian children claimed under section 3(a); and

"(iii) tribes and parents of Indian children claimed under section 3(a) are—

"(I) afforded an opportunity to present their views with respect to the application, including the opportunity to make recommendations concerning the needs of their children and the ways by which they can assist their children in realizing the benefits to be derived from the educational programs assisted under this paragraph;

"(II) actively consulted and involved in the planning and development of programs assisted under this paragraph; and

"(III) afforded a general opportunity to present their overall views on the educational program, including the operation of such programs, and the degree of parental participation allowed.

Written complaint.

"(C)(i) Any tribe, or its designee, which has students in attendance at a local educational agency may file a written complaint with the Commissioner regarding any action of a local educational agency taken pursuant to, or relevant to, the requirements of subparagraph (B) of this paragraph.

"(ii) Within ten working days from receipt of the complaint, the Commissioner shall—

Hearing.

"(I) designate a time and place for a hearing into the matters relating to the complaint at a location in close proximity to the local educational agency involved, or, if the Commissioner determines there is good cause, at some other location convenient to both the tribe, or its designee, and the local educational agency;

"(II) designate a hearing examiner to conduct the hearing; and

"(III) notify the affected tribe or tribes and the local educational agency involved of the time, place, and nature of the hearing and send copies of the complaint to the local educational agency and the affected tribe or tribes.

"(iii) The hearing shall be held within thirty days of the designation of a hearing examiner and shall be open to the public. A record of the proceedings shall be established and maintained.

"(iv) The complaining tribe, or its designee, and the local educational agency shall be entitled to present evidence on matters relevant to the complaint and to make recommendations concerning the appropriate remedial actions. Each party to the hearing shall bear only its own costs in the proceeding.

"(v) Within thirty days of the completion of the hearing, the hearing examiner shall, on the basis of the record, make written findings of fact and recommendations concerning appropriate remedial actions (if any) which should be taken. The hearing examiner's findings and recommendations, along with the hearing record, shall be forwarded to the Commissioner.

"(vi) Within thirty days of his receipt of the findings, recommendations, and record, the Commissioner shall, on the basis of the record, make a written determination of the appropriate remedial action, if any, to be taken by the local educational agency, the schedule for completion of the remedial action, and the reasons for his decision.

"(vii) Upon completion of his final determination, the Commissioner shall provide the complaining tribe, or its designee, and the local educational agency with copies of the hearing record, the hearing examiner's findings and recommendations, and the Commissioner's final determination. The final determination of the Commissioner shall be subject to judicial review.

"(viii) In all actions under this subparagraph, the Commissioner shall have discretion to consolidate complaints involving the same tribe or local educational agency.

"(D) If the local educational agency rejects the determination of the Commissioner, or if the remedy required is not undertaken within the time established and the Commissioner determines that an extension of the time established will not effectively encourage the remedy required, the Commissioner shall withhold payment of all moneys to which such local agency is entitled under section 3(d)(2)(D) until such time as the remedy required is undertaken, except where the complaining tribe or its designee formally requests that such funds be released to the local educational agency: *Provided*, That the Commissioner may not withhold such moneys during the course of the school year if he determines that it would substantially disrupt the educational programs of the local educational agency.

20 USC 238.

"(E) This paragraph is based upon the special relationship between the Indian nations and the United States and nothing in it shall be deemed to relieve any State of any duty with respect to any citizens of that State.".

Regulations.
20 USC 240 note.

(d) Within one year of the date of enactment of this Act, the Secretary, in cooperation with the Commissioner, shall propose and promulgate special regulations which will provide that where a local educational agency does not undertake the remedial action required by the Commissioner under section 5(b)(3)(C)(vi) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) and the Commissioner determines that an extension of time will not effectively encourage the remedy, the affected tribes may elect to contract with the Bureau under title I of the Indian Self-Determination and Education Assistance Act to provide educational services provided by the local educational agency or elect to have such services provided by a Bureau of Indian Affairs school. Such regulations shall also establish procedures whereby the funding necessary to provide such educational services may be obtained, and establish such procedures as are necessary to insure orderly and expeditious transition in provision of educational services.

20 USC 240.

25 USC 450f.

(e) Effective with respect to fiscal years beginning on or after the date of the enactment of this Act, section 5(c)(2)(A) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as amended by section 1007 of this Act, is amended by redesignating divisions (ii) through (vi) as divisions (iii) through (vii), respectively, and by adding after division (i) the following new division:

"(ii) to each local educational agency which provides free public education for children who reside on Indian land, as described in clause (A) of section 403(1), which equals 75 per centum of the amount to which such agency is entitled under section 3(d)(2)(D);".

20 USC 244.

FUNDING PROVISION

Publication in Federal Register.
25 USC 13 note.
25 USC 13.
25 USC 452 note.
Field survey.

SEC. 1102. (a) The Secretary of the Interior shall develop alternative methods for the equitable distribution of any supplement program funds provided, pursuant to an appropriation under the Act of November 2, 1921, commonly referred to as the Snyder Act, for contracting under the Act of April 16, 1934, commonly referred to as the Johnson-O'Malley Act, and shall publish in the Federal Register by March 1, 1979, such alternatives for the purpose of allowing eligible tribes to comment by May 1, 1979. At that time, the Secretary shall conduct a field survey listing all alternative formula.

Formula, publication in Federal Register.

(b) By July 1, 1979, the Secretary shall establish and publish the formula in the Federal Register which the majority of such tribes determine, but vote certified to the Secretary, to be most equitable and shall use such formula for purposes of distribution of the funds appropriated pursuant to such Act beginning on or after October 1, 1979. The Secretary shall, in accordance with procedures consistent with that prescribed herein, revise such formula periodically as necessary.

BASIC EDUCATIONAL SUPPORT

25 USC 13 note.

SEC. 1103. (a)(1) From sums already appropriated under the Act of November 2, 1921 (25 U.S.C. 13) and notwithstanding any other provision of law or any requirement of a grant or agreement relating to the timing of payments for basic support contracts or grants under the Act of April 16, 1934 (25 U.S.C. 452–457), the Secretary of the Interior shall make payments of any unexpended funds obligated for basic support contracts or grants under such Act of November 2, 1921, for fiscal year 1978 to any school that has received notification from the Department of the Interior of the award of such a contract or grant. Such payments shall be made in accordance with any applicable condition of such contracts or grants other than conditions relating to the timing of payments.

(2) The Secretary of the Interior shall make the payments referred to in paragraph (1) not later than thirty days after the date of the enactment of this Act. Saturdays, Sundays, and legal public holidays, as established by section 6103 of title 5, United States Code, shall not be considered as days for purposes of the preceding sentence.

25 USC 13–1.

(b) Such sums as are needed under such Act of November 2, 1921, are authorized to be appropriated to provide funds for basic educational support through parent committees under such Act of April 16, 1934, to those public schools educating Indian students and whose total sum of Federal, State, and local funds is insufficient to bring the education of the enrolled Indian students to a level equal to the level of education provided non-Indian students in the public schools in which they are enrolled where the absence of such support would result in the closing of schools or the reduction in quality of the education program afforded Indian students attending public schools.

PART B—BUREAU OF INDIAN AFFAIRS PROGRAMS

STANDARDS FOR THE BASIC EDUCATION OF INDIAN CHILDREN IN BUREAU OF INDIAN AFFAIRS SCHOOLS

Studies and surveys.
25 USC 2001.

SEC. 1121. (a) The Secretary, in consultation with the Assistant Secretary of Health, Education, and Welfare for Education, and in consultation with Indian organizations and tribes, shall carry out or cause to be carried out by contract with an Indian organization such studies and surveys, making the fullest use possible of other existing studies, surveys, and plans, as are necessary to establish and revise standards for the basic education of Indian children attending Bureau schools and Indian controlled contract schools (hereinafter referred to as "contract schools"). Such studies and surveys shall take into account factors such as academic needs, local cultural differences, type and level of language skills, geographical isolation and appropriate teacher-student ratios for such children, and shall be directed toward the attainment of equal educational opportunity for such children.

Minimum academic standards.
Publication in Federal Register.

(b)(1) Within fifteen months of the date of enactment of this Act, the Secretary shall propose minimum academic standards for the basic education of Indian children, and shall distribute such proposed standards to the tribes and publish such proposed standards in the Federal Register for the purpose of receiving comments from the tribes and other interested parties. Within eighteen months of the date of enactment of this Act, the Secretary shall establish final standards, distribute such standards to all the tribes and publish such standards in the Federal Register. The Secretary shall revise such standards periodically as necessary. Prior to any revision of such standards, the Secretary shall distribute such proposed revision to all the tribes, and publish such proposed revision in the Federal Register, for the purpose of receiving comments from the tribes and other interested parties.

(2) Such standards shall apply to Bureau schools, and subject to subsection (e), to contract schools, and may also serve as a model for educational programs for Indian children in public schools. In establishing and revising such standards, the Secretary shall take into account the special needs of Indian students and the support and reinforcement of the specific cultural heritage of each tribe.

(c) The Secretary shall provide alternative or modified standards in lieu of the standards established under subsection (b), where necessary, so that the programs of each school shall be in compliance with the minimum standards required for accreditation of schools in the State where the school is located.

Waiver.

(d) A tribal governing body, or the local school board if so designated by the tribal governing body, shall have the local authority to waive, in part or in whole, the standards established under subsections (b) and (c), where such standards are deemed by such body to be inappropriate or ill-conceived, and shall also have the authority to revise such standards to take into account the specific needs of the tribe's children. Such revised standards shall be established by the Secretary unless specifically rejected by the Secretary for good cause and in writing to the affected tribes or local school board, which rejection shall be final and unreviewable.

(e) The Secretary, through contracting procedures, shall assist school boards of contract schools in the implementation of the standards established under subsection (b) and (c), if the school boards request that such standards, in part or in whole, be implemented. The Secretary shall not refuse to enter into a contract with respect to any contract school on the basis of failure to meet such standards. At the request of a contract school board, the Secretary shall provide alternative or modified standards for the standards established under subsections (b) and (c) to take into account the needs of the Indian children and the contract school.

Plan, submittal to congressional committees.

(f) Subject to subsections (d) and (e), the Secretary shall begin to implement the standards established under this section immediately upon the date of their establishment. Within one year of such date, and at each time thereafter that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring all Bureau and contract schools up to the level required by the applicable standards established under this section. Such plan shall include, but not be limited to, detailed information on the status of each school's educational program in relation to the applicable standards established under this section, specific cost estimates for meeting such standards at each school, and specific time lines for bringing each school up to the level required by such standards.

Appropriation authorization.

(g) There are hereby authorized to be appropriated such sums as may be necessary, for academic program costs, in order to bring all Bureau and contract schools up to the level required by the applicable standards established under this section.

NATIONAL CRITERIA FOR DORMITORY SITUATIONS

Boarding costs, study.
25 USC 2002.

SEC. 1122. (a) The Secretary, in consultation with the Assistant Secretary for Health, Education, and Welfare for Education, and in consultation with Indian organizations and tribes, shall conduct or cause to be conducted by contract with an Indian organization, a study of the costs applicable to boarding arrangements for Indian students provided in Bureau and contract schools, for the purpose of establishing national criterial for such dormitory situations. Such criteria shall include adult-child ratios, needs for counselors (including special needs related to off-reservation boarding arrangements), space, and privacy.

Distributions to tribes and publication in Federal Register.

(b) Within fifteen months of the date of enactment of this Act, the Secretary shall propose such criteria, and shall distribute such proposed criteria to the tribes and publish such proposed criteria in the Federal Register for the purpose of receiving comments from the tribes and other interested parties. Within eighteen months of the date of enactment of this Act, the Secretary shall establish final criteria, distribute such criteria to all the tribes, and publish such criteria in the Federal Register. The Secretary shall revise such criteria periodically as necessary. Prior to any revision of such criteria, the Secretary shall distribute such proposed revision to all the tribes, and publish such proposed revision in the Federal Register, for the purpose of receiving comments from the tribes and other interested parties.

Plan, submittal to congressional committees.

(c) The Secretary shall begin to implement the criteria established under this section immediately upon the date of their establishment. Within one year of such date, and at each time thereafter that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring all Bureau and contract boarding schools up to the criteria established under this section. Such plan shall include, but not be limited to, predictions for the relative need for each boarding school in the future, detailed information on the status of each school in relation to the criteria established under this section, specific cost estimates for meeting such criteria at each school, and specific time lines for bringing each school up to the level required by such criteria.

Appropriation authorization.

(d) There are hereby authorized to be appropriated such sums as may be necessary in order to bring each school up to the level required by the criteria established under this section.

REGULATIONS

25 USC 2003.

SEC. 1123. The Secretary shall establish such regulations as are necessary to carry out sections 1121 and 1122 within eighteen months after the date of enactment of this Act.

STUDIES

Appropriations, limitation.
25 USC 2004.

SEC. 1124. There are hereby authorized to be appropriated no more than $1,000,000 to carry out the studies conducted under section 1121(a) and section 1122(a).

FACILITIES CONSTRUCTION

25 USC 2005.

SEC. 1125. (a) The Secretary shall immediately begin to bring all schools, dormitories, and other facilities operated by the Bureau or under contract with the Bureau in connection with the education of Indian children into compliance with all applicable Federal, tribal, or State health and safety standards, whichever provide greater protection (except that the tribal standards to be applied shall be no greater than any otherwise applicable Federal or State standards), and with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), except that nothing in this section shall require termination of the operations of any facility which does not comply with such provisions and which is in use on the date of enactment of this Act.

Plan, submittal to congressional committees.

(b) Within one year of the date of enactment of this Act, and at each time thereafter that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring such facilities into compliance with such standards. Such plan shall include, but not be limited to, detailed information on the status of each facility's compliance with such standards, specific cost estimates for meeting such standards at each school, and specific time lines for bringing each school into compliance with such standards.

Priorities, submittals to congressional committees and publications in Federal Register.

(c) Within six months of the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress, and publish in the Federal Register, the system used to establish priorities for school construction projects. At the time any budget request for school construction is presented, the Secretary shall publish in the Federal Register and submit with the budget request the current list of all school construction priorities.

Appropriation authorization.

(d) There are hereby authorized to be appropriated such sums as may be necessary to carry out subsection (a).

BUREAU OF INDIAN AFFAIRS EDUCATION FUNCTIONS

25 USC 2006.

SEC. 1126. (a) The Secretary shall vest in the Assistant Secretary for Indian Affairs all functions with respect to formulation and establishment of policy and procedure, and supervision of programs and expenditures of Federal funds for the purpose of Indian education administered by the Bureau. The Assistant Secretary shall carry out such functions through the Director of the Office of Indian Education Programs within the Bureau (hereinafter referred to as the "Office"), which shall be governed by the provisions of this Act, any other provision of law to the contrary notwithstanding.

(b) The Director of the Office shall direct and supervise the operations of all personnel directly and substantially involved with provision of education services by the Bureau. The Assistant Secretary for Indian Affairs shall provide for the adequate coordination between the affected Bureau offices and the Office in order to facilitate the expeditious consideration of all contract functions relating to education. Nothing in this Act shall be construed to require the provision of separate support services for Indian education.

(c) Education personnel located in Bureau agencies, who are under the direction and supervision of the Director of the Office in accordance with the first sentence of subsection (b), shall—

(1) monitor and evaluate Bureau education programs, and

(2) provide technical and coordinating assistance in areas such as procurement, contracting, budgeting, personnel, and curriculum.

However, in the case of boarding schools located off reservation operated by the Bureau, education personnel located in area offices of the Bureau shall provide such services, under the direction and supervision of the Director of the Office.

"Functions."

(d) For the purpose of this section the term "functions" includes powers and duties.

IMPLEMENTATION

Publication in Federal Register.
25 USC 2007.

SEC. 1127. Within six months after the date of enactment of this Act, the Secretary shall establish and publish in the Federal Register the policies and procedures which are necessary to implement the transfer of functions made under section 1126.

ALLOTMENT FORMULA

Regulation.
25 USC 2008.

SEC. 1128. (a) The Secretary shall establish, by regulation adopted in accordance with section 1138, a formula for determining the minimum annual amount of funds necessary to sustain each Bureau or contract school. In establishing such formula, the Secretary shall consider—

(1) the number of Indian students served and size of the school;

(2) special cost factors, such as—

(A) isolation of the school;

(B) need for special staffing, transportation, or educational programs;

(C) food and housing costs;

(D) overhead costs associated with administering contracted education functions; and

(E) maintenance and repair costs associated with the physical condition of the educational facilities;

(3) the cost of providing academic services which are at least equivalent to those provided by public schools in the State in which the school is located;

(4) the cost of bringing the school up to the level of the standards established under sections 1121 and 1122; and

(5) such other relevant factors as the Secretary determines are appropriate.

(b) Notwithstanding any other provisions of law, Federal funds appropriated for the general local operation of Bureau and contract schools, shall be allotted pro rata in accordance with the formula established under subsection (a), except that, in the case of any such school which is located in a school district of a local educational agency which receives from Federal funds under other provisions of law an average payment per Indian child attending such school in that district which is higher than the amount which would be received by such Bureau or contract school under such formula for each Indian child attending such school, the payment to be received by that school under this section for each such child shall be equal to such average payment for an Indian child in public school in that district.

Funds, provision.

(c) Notwithstanding subsection (b), the Secretary shall provide funds for the general local operation of Bureau and contract schools where necessitated by cases of emergencies or unforeseen contingencies not otherwise provided for under subsection (a). Whenever the Secretary makes funds available under this subsection, the Secretary shall report such action to the appropriate committees of Congress.

Report to Congress.

UNIFORM DIRECT FUNDING AND SUPPORT

Regulation.
25 USC 2009.

SEC. 1129. (a) Within six months after the date of enactment of this Act, the Secretary shall establish, by regulation adopted in accordance with section 1138, a system for the direct funding and support of all Bureau and contract schools. Such system shall allot funds, in accordance with section 1128, and shall provide each affected school with notification of its approximate allotment not later than the end of the school year preceding the year for which the allotment is to be made.

Local financial plans.

(b) In the case of all Bureau schools, allotted funds shall be expended on the basis of local financial plans which shall be prepared by the local school supervisor in active consultation with the local school board for each school, and the local school board for each school shall have the authority to ratify, reject, or amend such financial plan, and expenditures thereunder, and, on its own determination or in response to the supervisor of the school, to revise such financial plan to meet needs not foreseen at the time of preparation of the financial plan. The supervisor of the school may appeal any such action by the local school board to the superintendent for education of the Bureau agency, and the superintendent may, for good cause and in writing to the local school board, overturn the action of the local school board.

Appeals.

(c) Funds for self-determination grants under section 104(a)(2) of the Indian Self-Determination and Education Assistance Act shall not be used for providing technical assistance and training in the field of education by the Bureau unless such services are provided in accordance with a plan, agreed to by the tribe or tribes affected and the Bureau, under which control of education programs is intended to be transferred to such tribe or tribes within a specific period of time negotiated under such agreement.

25 USC 450h.

(d) In the exercise of its authority under this section, a local school board may request technical assistance and training from the Secretary, and he shall, to the greatest extent possible, provide such services, and make appropriate provisions in the budget of the Office for such services.

POLICY FOR INDIAN CONTROL OF INDIAN EDUCATION

25 USC 2010.

SEC. 1130. It shall be the policy of the Bureau, in carrying out the functions of the Bureau, to facilitate Indian control of Indian affairs in all matters relating to education.

EDUCATION PERSONNEL

25 USC 2011. 5 USC 5101 *et seq.*, 5301, 6301 *et seq.*

SEC. 1131. (a)(1) Chapter 51, subchapter III of chapter 53, and chapter 63 of title 5, United States Code, relating to leave, pay, and classification, and the sections relating to the appointment, promotion and removal of civil service employees, shall not apply to educators or to education positions (as defined in subsection (n)).

(2) Paragraph (1) shall take effect one year after the date of enactment of this Act.

Regulations.

(b) Not later than the effective date of subsection (a)(2), the Secretary shall prescribe regulations to carry out this section. Such regulations shall govern—

(1) the establishment of education positions,

(2) the establishment of qualifications for educators,

(3) the fixing of basic compensation for educators and education positions,

(4) the appointment of educators,

(5) the discharge of educators,

(6) the entitlement of educators to compensation,

(7) the payment of compensation to educators,

(8) the conditions of employment of educators,

(9) the length of the school year applicable to education positions described in subsection (n)(1)(A),

(10) the leave system for educators, and

(11) such other matters as may be appropriate.

Educator qualifications, requirements.

(c)(1) In prescribing regulations to govern the qualifications of educators, the Secretary shall require—

(A)(i) that lists of qualified and interviewed applicants for education positions be maintained in each agency and area office of the Bureau from among individuals who have applied at the agency or area level for an education position or who have applied at the national level and have indicated in such application an interest in working in certain areas or agencies; and

(ii) that a list of qualified and interviewed applicants for education positions be maintained in the Office from among individuals who have applied at the national level for an education position and who have expressed interest in working in an education position anywhere in the United States,

(B) that a local school board shall have the authority to waive on a case-by-case basis, any formal education or degree qualifications established by regulation pursuant to subsection (b)(2), in order for a tribal member to be hired in an education position to teach courses on tribal culture and language and that subject to subsection (d)(2)(A), a determination by a school board that such a person be hired shall be followed by the supervisor; and

(C) that it shall not be a prerequisite to the employment of an individual in an education position at the local level that such individual's name appear on the national list maintained pursuant to subsection (c)(1)(A)(ii) or that such individual has applied at the national level for an education position.

(2) The Secretary may authorize the temporary employment in an education position of an individual who has not met the certification standards established pursuant to regulations, if the Secretary determines that failure to do so would result in that position remaining vacant.

Educator appointments, requirements.

(d)(1) In prescribing regulations to govern the appointment of educators, the Secretary shall require—

(A)(i) that educators employed in a school (other than the supervisor of the school) shall be hired by the supervisor of the school unless there are no qualified applicants available, in which case the vacant position shall be filed at the national level from the list maintained pursuant to subsection (c)(1)(A)(ii).

(ii) each school supervisor shall be hired by the superintendent for education of the agency office of the Bureau in which the school is located, and

(iii) educators employed in an agency office of the Bureau shall be hired by the superintendent for education of the agency office;

(B) that before an individual is employed in an education position in a school by the supervisor of a school (or, with respect to the position of supervisor, by the appropriate agency superintendent for education), the local school board for the school shall be consulted, and that subject to subsection (d)(2), a determination by the school board that such individual should or should not be so employed shall be followed by the supervisor (or with respect to the position of supervisor, by the agency superintendent for education); and

(C) that before an individual may be employed in an education position at the agency level, the appropriate agency school board shall be consulted, and that, subject to subsection (d)(3), a determination by such school board that such individual should or should not be employed shall be followed by the agency superintendent for education.

Appeals.

(2)(A) The supervisor of a school may appeal to the appropriate agency superintendent for education any determination by the local school board for the school that an individual be employed, or not be employed, in an education position in the school other than that of supervisor. Upon such an appeal, the agency superintendent for education may, for good cause and in writing to the local school board, overturn the determination of the local school board with respect to the employment of such individual.

(B) The superintendent for education of an agency office of the Bureau may appeal to the Director of the Office any determination by the local school board for a school that an individual be employed, or not be employed, as the supervisor of the school. Upon such an appeal, the Director of the Office may, for good cause and in writing to the local school board, overturn the determination of the local school board with respect to the employment of such individual.

(3) The superintendent for education of an agency office of the Bureau may appeal to the Director of the Office any determination by the agency school board that an individual be employed, or not be employed, in an education position in such agency office. Upon such an appeal, the Director of the Office may, for good cause and in writing to the agency school board, overturn the determination of the agency school board with respect to the employment of such individual.

Ed[illegible]on pos[illegible] application statement.

(4) Any individual who applies at the local level for an education position shall state on such individual's application whether or not such individual has applied at the national level for an education position in the Bureau. If such individual is employed at the local level, such individual's name shall immediately be forwarded to the Secretary, who shall, as soon as possible but in no event in more than thirty days, ascertain the accuracy of the statement made by such individual pursuant to the first sentence of this subparagraph. If the individual's statement is found to have been false, such individual, at the Secretary's discretion, may be disciplined or discharged. If the indi-

vidual had applied at the national level for an education position in the Bureau, if the appointment of such individual at the local level shall be conditional for a period of ninety days, during which period the Secretary may appoint a more qualified individual (as determined by the Secretary) from the list maintained at the national level pursuant to subsection (c)(1)(A)(ii) to the position to which such individual was appointed.

(5) Except as expressly provided, nothing in this section shall be construed as conferring upon local school boards, authority over, or control of, educators.

Educator discharge and employment requirements.

(e)(1) In prescribing regulations to govern the discharge and conditions of employment of educators, the Secretary shall require—

(A) that procedures be established for the rapid and equitable resolution of grievances of educators;

(B) that no educator may be discharged without notice of the reasons therefor and opportunity for a hearing under procedures that comport with the requirements of due process; and

(C) educators employed in Bureau schools shall be notified sixty days prior to the end of the school year whether their employment contract will be renewed for the coming year.

Notification.

Appeal.

(2) The supervisor of a Bureau school may discharge (subject to procedures established under paragraph (1)(B)) for cause (as determined under regulations prescribed by the Secretary) any educator employed in such school. Upon giving notice of proposed discharge to an educator, the supervisor involved shall immediately notify the local school board for the school of such action. A determination by the local school board that such educator shall not be discharged shall be followed by the supervisor. The supervisor shall have the right to appeal such action to the superintendent for education of the appropriate agency office of the Bureau. Upon such an appeal, the agency superintendent for education may, for good cause and in writing to the local school board, overturn the determination of the local school board with respect to the employment of such individual.

Recommendations.

(3) Each local school board for a Bureau school shall have the right (A) to recommend to the supervisor of such school that an educator employed in the school be discharged, and (B) to recommend to the superintendent of education of the appropriate agency office of the Bureau and to the Director of the Office, that the supervisor of the school be discharged.

Waiver.

(f)(1) Notwithstanding any provision of the Indian preference laws, such laws shall not apply in the case of any personnel action within the purview of this section respecting an employee not entitled to Indian preference if each tribal organization concerned grants, in writing, a waiver of the application of such laws with respect to such personnel action, where such a waiver is in writing deemed to be a necessity by the tribal organization, except that this shall in no way relieve the Bureau of its responsibility to issue timely and adequate announcements and advertisements concerning any such personnel action if it is intended to fill a vacancy (no matter how such vacancy is created).

Definitions.

(2) For purposes of this subsection, the term "tribal organization" means—

(A) the recognized governing body of any Indian tribe, band, nation, pueblo, or other organized community, including a Native village (as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c); 85 Stat. 688)); or

(B) in connection with any personnel action referred to in this subsection, any local school board as defined in section 1139, and which has been delegated by such governing body the authority to grant a waiver under such subsection with respect to such personnel action.

(3) The term "Indian preference laws" means section 12 of the Act of June 18, 1934 (25 U.S.C. 472; 48 Stat. 986) or any other provision of law granting a preference to Indians in promotions and other personnel actions, except that such term shall not be considered to include section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b); 88 Stat. 2295).

(g) Subject to the authority of the Civil Service Commission to determine finally the applicability of chapter 51 of title 5, United States Code, to specific positions and employees in the executive branch, the Secretary shall determine in accordance with subsection (a)(1) the applicability or inapplicability of such chapter to positions and employees in the Bureau.

5 USC 5101 et seq.

Compensation.

5 USC 5332 note.

(h)(1) The Secretary shall fix the basic compensation or annual salary rate for educators and education positions at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 is applicable.

(2) Each educator employed in an education position in Alaska shall be paid a cost-of-living allowance equal to 25 per centum of the rate of basic compensation to which such educator is entitled.

(3) The Secretary may pay a postdifferential not to exceed 25 per centum of the rate of basic compensation, on the basis of conditions of environment or work which warrant additional pay as a recruitment and retention incentive.

(i) Any individual—

(1) who on the date of enactment of this Act is holding a position which is determined under subsection (f) to be an education position and who elects under subsection (o)(2) to be covered under the provisions of this section, or

(2) who is an employee of the Federal Government or the municipal government of the District of Columbia and is transferred, promoted, or reappointed, without break in service, from a position under a different leave system to an education position,

shall be credited for the purposes of the leave system provided under regulations prescribed pursuant to subsection (b)(10), with the annual and sick leave to his credit immediately before the effective date of such election, transfer, promotion, or reappointment.

(j) Upon termination of employment with the Bureau, any annual leave remaining to the credit of an individual within the purview of this section shall be liquidated in accordance with sections 5551(a) and 6306 of title 5, United States Code, except that leave earned or accrued under regulations prescribed pursuant to subsection (b)(10) shall not be so liquidated.

(k) In the case of any educator who is transferred, promoted, or reappointed, without break in service, to a position in the Federal Government under a different leave system, any remaining leave to the credit of such person earned or credited under the regulations prescribed pursuant to subsection (b)(10) shall be transferred to his credit in the employing agency on an adjusted basis in accordance with regulations which shall be prescribed by the Civil Service Commission.

(l) An educator who voluntarily terminates employment with the Bureau before the expiration of the existing employment contract between such educator and the Bureau shall not be eligible to be employed in another education position in the Bureau during the remainder of the term of such contract.

(m) In the case of any educator employed in an education position described in subsection (n)(1)(A) who—

(1) is employed at the close of a school year,

(2) agrees in writing to serve in such a position for the next school year, and

(3) is employed in another position during the recess period immediately preceding such next school year, or during such recess period receives additional compensation referred to in subsection (g)(2) or (g)(3), section 5533 of title 5, United States Code, relating to dual compensation, shall not apply to such educator by reason of any such employment during a recess period for any such receipt of additional compensation.

Definitions.

(n) For the purpose of this section—

(1) The term "education position" means a position in the Bureau the duties and responsibilities of which—

(A) are performed on a school-year basis principally in a Bureau school and involve—

(i) classroom or other instruction or the supervision or direction of classroom or other instruction;

(ii) any activity (other than teaching) which requires academic credits in educational theory and practice equal to the academic credits in educational theory and practice required for a bachelor's degree in education from an accredited institution of higher education; or

(iii) any activity in or related to the field of education notwithstanding that academic credits in educational theory and practice are not a formal requirement for the conduct of such activity; or

(B) are performed at the agency level of the Bureau and involve the implementation of education-related programs other than the position of agency superintendent for education.

(2) The term "educator" means an individual whose services are required, or who is employed, in an education position.

(o)(1) This section shall apply with respect to any individual hired after the effective date of subsection (a)(2) for employment in an education position and to the position in which such individual is employed. Subject to paragraph (2), the enactment of this Act shall not affect the continued employment of any individual employed immediately before the effective date of subsection (a)(2) in an education position, or such individual's right to receive the compensation attached to such position.

(2) Any individual employed in an education position immediately before the effective date of subsection (a)(2) may, within five years of the date of enactment of this Act, make an irrevocable election to be covered under the provisions of this section.

MANAGEMENT INFORMATION SYSTEM

Establishment.
25 USC 2012.

Sec. 1132. The Secretary shall establish within the Bureau, within one year after the date of the enactment of this Act, a computerized management information system, which shall provide information to all agency and area offices of the Bureau, and to the Office. Such information shall include but shall not be limited to—

(1) student enrollment;

(2) curriculum;
(3) staff;
(4) facilities;
(5) community demographics; and
(6) student assessment information.

BUREAU EDUCATION POLICIES

Sec. 1133. Within one hundred and eighty days of the date of enactment of this Act, the Secretary shall develop, publish in the Federal Register, and submit to all agency and area offices of the Bureau, all tribal governments, and the appropriate committees of the Congress, a draft set of education policies, procedures, and practices for education-related action of the Bureau. The Secretary shall, within one year of the date of enactment of this Act, provide that such uniform policies, procedures, and practices shall be finalized and promulgated. Thereafter, such policies, procedures, and practices and their periodic revisions, shall serve as the foundation for future Bureau actions in education.

Publication in Federal Register and submittals to Bureau, tribes, and congressional committees.
25 USC 2013.

UNIFORM EDUCATION PROCEDURES AND PRACTICES

Sec. 1134. The Secretary shall cause the various divisions of the Bureau to formulate uniform procedures and practices with respect to such concerns of those divisions as relate to education, and shall report such practices and procedures to the Congress.

Report to Congress.
25 USC 2014.

RECRUITMENT OF INDIAN EDUCATORS

Sec. 1135. The Secretary shall institute a policy for the recruitment of qualified Indian educators and a detailed plan to promote employees from within the Bureau. Such plan shall include opportunities for acquiring work experience prior to actual work assignment.

Policy and plan.
25 USC 2015.

ANNUAL REPORT

Sec. 1136. The Secretary shall submit to each appropriate committee of the Congress a detailed annual report on the state of education within the Bureau and any problems encountered in the field of education during the year. Such report shall contain suggestions for improving the Bureau educational system and increasing local Indian control of such system.

Submittal to congressional committees.
25 USC 2016.

RIGHTS OF INDIAN STUDENTS

Sec. 1137. Within six months of the date of enactment of this Act, the Secretary shall prescribe such rules and regulations as are necessary to insure the constitutional and civil rights of Indian students attending Bureau schools, including, but not limited to, their right to privacy under the laws of the United States, their right to freedom of religion and expression and their right to due process in connection with disciplinary actions, suspensions, and expulsions.

Rules and regulations.
25 USC 2017.

REGULATIONS

Sec. 1138. Regulations required to be adopted under sections 1126 through 1137 of this Act shall be deemed rules of general applicability prescribed for the administration of an applicable program for the purposes of section 431 of the General Education Provisions Act and shall be promulgated, submitted for congressional review, and take effect in accordance with the provisions of such section.

25 USC 2018.
20 USC 1232.

DEFINITIONS

25 USC 2019.

SEC. 1139. For the purpose of this title—

(1) the term "agency school board" means a body, the members of which are appointed by the school boards of the schools located within such agency, and the number of such members shall be determined by the Secretary in consultation with the affected tribes, except that, in agencies serving a single school, the school board of such school shall fulfill these duties;

(2) the term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior;

(3) the term "Commissioner" means the Commissioner of Education;

(4) the term "financial plan" means a plan of services to be provided by each Bureau school;

(5) the term "Indian organization" means any group, association, partnership, corporation, or other legal entity owned or controlled by a federally recognized Indian tribe or tribes, or a majority of whose members are members of federally recognized Indian tribes;

(6) the term "local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent, or other school district located within a State, and includes any State agency which directly operates and maintains facilities for providing free public education;

(7) the term "local school board", when used with respect to a Bureau school, means a body chosen in accordance with the laws of the tribe to be served or, in the absence of such laws, elected by the parents of the Indian children attending the school, except that in schools serving a substantial number of students from different tribes, the members shall be appointed by the governing bodies of the tribes affected; and the number of such members shall be determined by the Secretary in consultation with the affected tribes;

(8) the term "Secretary" means the Secretary of the Interior;

(9) the term "supervisor" means the individual in the position of ultimate authority at a Bureau school; and

(10) the term "tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

43 USC 1601 note.

PART C—INDIAN EDUCATION PROVISIONS

EXTENSION OF AUTHORIZATION

20 USC 3385.

SEC. 1141. (a) Section 1005(g) of the Elementary and Secondary Education Act of 1965 as redesignated by section 801 of this Act, is amended by striking out "July 1, 1978" and inserting in lieu thereof "October 1, 1983".

(b) Section 303(a)(1) of the Indian Elementary and Secondary School Assistance Act (title III of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress)) as added by the Indian

Education Act, is amended by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1983". 20 USC 241bb.

(c)(1) Section 422 of the Indian Education Act is amended by striking out "each of the three succeeding fiscal years" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to October 1, 1983". 20 USC 887c-1.

(2) Section 423(a) of such Act is amended by striking out "each of the three succeeding fiscal years" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to October 1, 1983". 20 USC 887c-2.

(3) Section 442(a) of such Act is amended by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1983". 20 USC 1221g.

CULTURALLY RELATED ACADEMIC NEEDS

Sec. 1142. (a) Section 302(a) of the Indian Elementary and Secondary School Assistance Act is amended— 20 USC 241aa.

(1) by striking out "special educational needs of Indian students" and inserting in lieu thereof "special educational and culturally related academic needs of Indian students"; and

(2) by striking out "these special educational needs" and inserting in lieu thereof "these special educational or culturally related academic needs, or both".

(b) Section 304 of such Act is amended by striking out "special educational needs" each place it appears in paragraphs (1) and (2) and inserting in lieu thereof "special educational or culturally related academic needs, or both,". 20 USC 241cc.

DEMONSTRATION PROJECTS

Sec. 1143. Section 303 of the Indian Elementary and Secondary School Assistance Act is amended by adding at the end thereof the following new subsection: Grants, appropriation authorization. 20 USC 241bb.

"(c) In addition to the sums appropriated for any fiscal year for grants to local educational agencies under this title, there is hereby authorized to be appropriated for any fiscal year an amount not in excess of 10 per centum of the amount appropriated for payments on the basis of entitlements computed under subsection (a) for that fiscal year, for the purpose of enabling the Commissioner to make grants on a competitive basis to local educational agencies to support demonstration projects and programs which are designed to plan for and improve education opportunities for Indian children, except that the Commissioner shall reserve a portion not to exceed 25 per centum of such funds to make grants for demonstration projects examining the special educational and culturally related academic needs that arise in school districts with high concentrations of Indian children.".

PARENT COMMITTEES

Sec. 1144. Section 305(b) of the Indian Elementary and Secondary School Assistance Act is amended— 20 USC 241dd.

(1) by inserting "(including persons acting in loco parentis)" after "Indian children" in paragraph (2)(B)(i) and after "children participating in the program" in paragraph (2)(B)(ii);

(2) by inserting ", including policies and procedures relating to the hiring of personnel," after "policies and procedures" in paragraph (2)(C); and

(3) by striking out the period at the end of paragraph (2)(C) and inserting in lieu thereof a semicolon and by adding at the end thereof the following new paragraph:

"(3) provides that the parent committee formed pursuant to paragraph (2)(B)(ii) will adopt and abide by reasonable by-laws for the conduct of the program for which assistance is sought.".

ALLOCATION ADJUSTMENT

20 USC 241ff. Sec. 1145. Section 307(b) of the Indian Elementary and Secondary School Assistance Act is amended to read as follows:

"(b) In the case of any fiscal year in which the maximum amounts for which local educational agencies are eligible have been reduced under the first sentence of subsection (a), and in which additional funds have not been made available to pay in full the total of such maximum amounts under the second sentence of such subsection, the Commissioner may reallot, in such manner as he determines will best assist in advancing the purposes of this title, any amount awarded to a local education agency in excess of the amount to which it is 20 USC 241bb. entitled under section 303(a) and subsection (a) of this section, or any amount which the Commissioner determines, based upon estimates made by local educational agencies, will not be needed by any such agency to carry out its approved project.".

TRIBAL SCHOOLS

20 USC 241bb–1. Sec. 1146. Notwithstanding any other provision of law, any Indian tribe or organization which is controlled or sanctioned by an Indian tribal government and which operates any school for the children of that tribe shall be deemed to be a local educational agency for purposes of section 303(a) of the Indian Elementary and Secondary School Assistance Act if each such school, as determined by the Commissioner, operated by that tribe or organization provides its students an educational program which meets the standards established under section 1121 for the basic education of Indian children, or is a school operated under contract by that tribe or organization in accordance with the provisions of the Indian Self-Determination and Education 25 USC 450 note. Assistance Act.

DEFINITION STUDY

20 USC 1221h. Sec. 1147. Section 453 of the Indian Education Act is amended by inserting "(a)" immediately after "Sec. 453." and by adding at the end thereof the following new subsection:

Consultation and submittal to Congress. "(b) The Assistant Secretary of Health, Education, and Welfare for Education, in consultation with Indian tribes, national Indian organizations, and the Secretary of the Interior, shall supervise a thorough study and analysis of the definition of Indian contained in subsection (a) and submit a report on the results of such study and analysis to the Congress not later than January 1, 1980. Such study and analysis shall include but not be limited to—

"(1) an identification of the total number of Indian children being served under this title;

"(2) an identification of the number of Indian children eligible and served under each of the four clauses of such definition in such subsection;

"(3) an evaluation of the consequences of eliminating descendants in the second degree from the terms of such definition, or of specifying a final date by which tribes, bands, and groups must be recognized, or of both;

"(4) other options for changes in the terms of such definition and an evaluation of the consequences of such changes, together with supporting data;

"(5) recommendations with respect to criteria for use by the Commissioner under the rulemaking authority contained in clause (4) of such subsection.".

DATA COLLECTION

SEC. 1148. Section 453 of the Indian Education Act is amended by inserting after subsection (b), as added by section 1147: 20 USC 1221h.

"(c) In establishing a child's eligibility for entitlement under part A of this Act, the Commissioner shall request at least the following information on the student eligibility form:

"(1) the name of the tribe, band, or other organized group of Indians with which the applicant claims membership, along with the enrollment number establishing membership (where applicable), and the name and address of the organization which has updated and accurate membership data for such tribe, band, or other organized group of Indians; or, if the child is not a member of a tribe, band, or other organized group of Indians, the student eligibility form shall bear the name, the enrollment number (where applicable) and the organization (and address thereof) responsible for maintaining updated and accurate membership roles of any of the applicant's parents or grandparents, from whom the applicant claims eligibility;

"(2) whether the tribe, band, or other organized group of Indians with which the applicant, his parents, or grandparents claim membership are federally recognized;

"(3) the name and address of the parent or legal guardian;

"(4) the signature of the parent or legal guardian verifying the accuracy of the information supplied; and

"(5) any other information which the Secretary deems necessary to provide an accurate program profile.".

PROGRAM MONITORING

SEC. 1149. (a) The Commissioner shall establish a method of auditing on an annual basis a sample of not less than one-third of the total number of school districts receiving funds under part A of the Indian Education Act, and shall report to the Congress his findings. Annual audit, report to Congress. 20 USC 241aa note.

(b) Any falsification of information provided on the local educational agency application for funds under part A of such Act is punishable by impoundment of unused funds and an ineligibility for receiving any future entitlement under such Act. Information falsification.

(c) Any falsification of information provided on the student eligibility form for funds under part A of such Act is punishable by making that individual ineligible for receiving any future entitlement under the Act.

AMENDMENTS TO TITLE X OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 1150. (a) Section 1005(c)(1)(E) of the Elementary and Secondary Education Act of 1965, as redesignated by section 801 of this Act, is amended by inserting "and gifted and talented Indian children" after "handicapped". 20 USC 3385.

20 USC 3385.

(b)(1) Section 1005(c)(1)(F) of the Elementary and Secondary Education Act of 1965, as redesignated by section 801 of this Act, is amended to read as follows:

"(F) early childhood programs, including kindergarten;".

(2)(A) Section 1005(d) of the Elementary and Secondary Education Act of 1965, as redesignated by section 801 of this Act, is amended—

(i) by striking out "children" in paragraphs (1) and (2) of such section and by inserting in lieu thereof "students" each time it appears; and

(ii) by inserting after "teachers" a comma and the following: "administrators".

(B) The section heading of section 1005 of the Elementary and Secondary Education Act of 1965, as redesignated by section 801 of this Act, is amended to read as follows:

"IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN STUDENTS"

(c)(1) Section 1005(e) of the Elementary and Secondary Education Act of 1965, as redesignated by section 801 of this Act, is amended as follows:

Regional information centers, establishment, grants and contracts.

"(e)(1) The Commissioner is also authorized to make grants to and contracts with public agencies, State educational agencies in States in which more than five thousand Indian children are enrolled in public elementary and secondary schools, Indian tribes, Indian institutions, Indian organizations, or to make contracts with private institutions and organizations, to establish, on a regional basis, information centers to—

20 USC 241aa note.
20 USC 1211a.

"(A) evaluate programs assisted under this part, under the Indian Elementary and Secondary School Assistance Act, under section 314 of the Adult Education Act, and other Indian education programs in order to determine their effectiveness in meeting the special educational and culturally related academic needs of Indian children and to conduct research to determine those needs;

20 USC 241dd.

"(B) provide technical assistance upon request to local educational agencies and Indian tribes, Indian organizations, Indian institutions, and parent committees created pursuant to section 305(b)(2)(B)(ii) of the Indian Elementary and Secondary School Assistance Act in evaluating and carrying out programs assisted under this part, under such Act, and under section 314 of the Adult Education Act through the provision of materials and personnel resources; and

"(C) disseminate information upon request to the parties described in subparagraph (B) concerning all Federal education programs which affect the education of Indian children including information on successful models and programs designed to meet the special educational needs of Indian children.

"(2) Grants or contracts made pursuant to this subsection may be made for a term not to exceed three years (renewable at the end of that period subject to the approval of the Commissioner) provided that provision is made to insure annual review of the projects.".

(2) Section 1005(b) of such Act, as redesignated by section 801 of this Act, is amended by striking out "Indian tribes, organizations, and institutions" and inserting in lieu thereof "Indian tribes, Indian organizations, and Indian institutions".

BEST COPY AVAILABLE

(d) Section 1005(f) of the Elementary and Secondary Education Act of 1965, as redesignated by section 801 of this Act, is amended by inserting "(1)" after "(f)", by redesignating clauses (1), (2), (3), and (4) as clauses (A), (B), (C), and (D) respectively, and by adding at the end thereof the following:

20 USC 3385.

"(2) The Commissioner shall not approve an application for a grant under subsection (e) of this section unless he is satisfied that the funds made available under that subsection will be so used as to supplement the level of funds from State, local, and other Federal sources that would, in the absence of Federal funds under this subsection, be made available by the State or local educational agency for the activities described in this subsection, and in no case will be used so as to supplant those funds.".

(e) Section 1005(g) of the Elementary and Secondary Education Act of 1965, as redesignated by section 801 of this Act, is amended by inserting "(1)" after "(g)" and by adding at the end thereof the following:

"(2) For the purpose of making grants under subsection (e) of this section there are hereby authorized to be appropriated $8,000,000 for each of the fiscal years ending prior to October 1, 1983. The sum of the grants made to State educational agencies under subsection (e) of this section shall not exceed 15 per centum in any fiscal year of the sums appropriated for that year.".

Appropriation authorization.

(f) Section 306(a) of the Indian Elementary and Secondary School Assistance Act is amended by inserting "estimated to be" after "equal to the amount".

20 USC 241ee.

DEFINITION OF INDIAN

SEC. 1151. Section 453(1) of the Indian Education Act is amended by striking out "now or in the future".

20 USC 1221h.

TEACHER TRAINING AND FELLOWSHIPS

SEC. 1152. (a) The first sentence of section 422(a) of the Indian Education Act is amended by striking out "children" and inserting in lieu thereof "people".

20 USC 887c-1.

(b) Section 423(a) of the Indian Education Act is amended—

20 USC 887c-2.

(1) by striking out "less than three, nor"; and

(2) by striking out "professional or graduate degree in engineering, medicine, law, business, forestry, and related field" and inserting in lieu thereof "postbaccalaureate degree in medicine, law, education, and related fields or leading to an undergraduate or graduate degree in engineering, business administration, natural resources, and related fields.".

Mr. **Kildee**. We have with us this morning on the minority side, Mr. Hinson on the subcommittee and Mr. Williams on the majority side. I would also like to bring to your attention that we have Mr. Larry Morgan representing Congressman Harold Runnels who is sitting over here. He was very helpful last week as we took a tour of the Pueblo and the Navajo and Hopi Reservations, BIA schools and contract schools and helped us in putting that together. I appreciate his input. He is here today representing his Congressman.

I am very happy to be chairing this hearing this morning. It is the first of what I hope will be several on the various facets of the Bureau's implementation of the new law, Public Law 95-561.

I worked on this legislation with former Congressman Blouin and Congressman Quie, the first of whom is now working for the President of the United States and the other is the new Governor of Minnesota.

I know its origins and its purposes. Because I believe so strongly in its goal of Indian control of education services, I am glad I am here to see that the work we began last year is carried through to completion.

Chairman Perkins of this committee has given me the responsibility for this oversight and I intend to make it a very positive effort.

Today we will hear from the Assistant Secretary, Mr. Gerard and Mr. Lavis and Mr. Barlow. We welcome Mr. Barlow before this subcommittee again in his new capacity.

We are also privileged to have before our subcommittee the chairpersons of several of the task forces which are drafting the regulations for implementation of 95-561.

Today we wish to specifically focus on the areas of Johnson-O'Malley, education functions, the formula for distribution of education funds and the new education personnel system. We are concentrating on these today because these are the groups which have the shortest time lines in which to do their task. Most of these task forces have to have proposed regulations ready for publication in proposed form by May 1. In the case of JOM, final action is also due quickly, by July 1. For this reason it is important for us to learn how things are going in these areas.

We must pay special attention to the work of these groups for another reason. I have just completed a tour of Bureau and Contract Schools serving the Pueblo, Navajo, and Hopi communities. Everywhere I went the tribes were concerned that these 6-month time lines, which are legislatively mandated, would not be long enough to allow for substantial BIA-tribal consultation prior to final regulation. They placed special emphasis for the need for public hearings to be conducted in the field.

In my opinion, these groups have a valid point. I agree with their concerns. I have gone over in my own mind alternative ways to obtain time for field hearings. I have had the staff talk with the Bureau to see if there was anything which could be done. Unfortunately all efforts have led to a brick wall. In short, there is no way to legally extend the time lines to allow for field hearings.

The Bureau will have to meet the May 1 and July 1 deadlines. However, this does not mean that tribal consultation should not take place in a very meaningful fashion.

Today I will ask the Bureau to join with me in a commitment to see that this happens. Steps to insure it, such as briefings and the dissemination of all information which is currently available, that is the law and drafts from the task force should begin immediately. I ask the Bureau to set up machinery now to guarantee the swift dissemination of the proposed regulations to all parties involved in this including the tribes, the BIA schools and the contract schools so that the amount of time available for review is maximized.

[Information referred to above follows:]

THE NAVAJO AREA SCHOOL BOARD ASSOCIATION,
Window Rock Navajo Nation, Ariz., April 20, 1979.

Hon. DALE E. KILDEE,
House Office Building, Washington, D.C.

DEAR CONGRESSMAN KILDEE: On behalf of the Navajo Area School Board Association, I want to thank you for meeting with the school boards and the staffs of the Association during your visit to Window Rock, Navajo Nation (Arizona) on April 18, 1979.

With respect to your remarks regarding the time lines established by law, we are requesting your cooperation to dispel our concerns to your colleagues and the committee of the congressional oversight hearing that the public hearings be scheduled in the Indian reservations on all of the proposed rules and regulations of the law (Public Law 95-561). For a successful implementation of the law, the various Indian Tribes should be consulted prior to the publication of the proposed regulations. Therefore, we request that a 60 day extension of time be allowed for public hearings.

Your understanding and cooperation with regards to the extension of time for public hearings of the proposed regulations is appreciated. Thank you.

Respectfully yours,

CHESTER H. KAY,
Assistant Director.

THE NAVAJO AREA SCHOOL BOARD ASSOCIATION,
Window Rock Navajo Nation, Ariz., April 20, 1979.

ALAN LOVESEE,
House of Representatives, Committee on Education and Labor,
Cannon House Office Building, Washington, D.C.

DEAR MR. LOVESEE: On behalf of the Navajo Area School Board Association, I want to thank you for meeting with the school boards and the staffs of the Association during your visit along with the Congressman Dale E. Kildee to Window Rock, Navajo Nation (Arizona) on April 18, 1979.

As a result of your presentation on the congressional intent of the Public Law 95-561, the Association strongly recommends that a 60 day extension of time be allowed so that a public hearing be scheduled in the Indian reservations on all of the proposed rules and regulations of the law. For a successful implementation of the law, the various Indian Tribes should be consulted prior to the publication of the proposed regulations.

Thank you for your cooperation.

Respectfully yours,

CHESTER H. KAY,
Assistant Director.

RESOLUTION OF SHIPROCK AGENCY SCHOOL BOARD

Requesting the National Task Force Committees for Public Law 95-561 (HR-15) to Reject Any and All Recommendations that may Circumvent the Intent of this Law.

Whereas:

1. The Navajo people and the Indian Leaders in Shiprock Agency have always advocated community control of educational programs for their children; and

2. Every year, we, the Agency School Board, have been consulted in the preparation of the PPE (Program Plan Evaluation) and the ZBB (Zero Based Budgeting) in which we have identified and determined funding needs that would be adequate for our children based on program needs; and

3. Despite our input by planning, requests and resolutions of support, the final distribution of school monies are not always what we desire as required for adequate and equality educational programs for our children and the funds are not consistent with our identified needs; and

4. The distribution of education funds has been changed three times since September 29, 1978, and each time these distributions were changed, the school funds continue to decrease; and

5. We are also aware of funds being diverted at the Navajo Area Level for purposes other than school operation, thus the final amount of per pupil cost is always lower than it should have been if the Advice for Allotment had been left as originally received, and

6. These diversions have created a Reduction-in-Force in the Agency affecting 113 positions due to lack of funds and many of our valuable employees will be separated from their positions and others will be reassigned, and

7. Diversions of school monies force our schools to curtail services, and

8. We feel that direct funding from the Bureau of Indian Affairs Central Office, to the local schools would eliminate the present practice of diverting school operation funds; and

9. We further believe that any exception(s) to the direct line relationship between the B.I.A. Central Office and local schools, direct funding in particular, would adversely circumvent the intent of the law: Now, therefore, be it

Resolved that, We, the Shiprock Agency School Board, hereby request the National Task Force Committees for Public Law 95-561 (HR-15) to reject any tactics, maneuvers, or schemes which would circumvent and jeopardize the direct line relationship, particularly direct funding.

CERTIFICATION

We hereby certify that the foregoing resolution was discussed and thoroughly considered at a duly called board meeting on March 9, 1979, at Aztec Bordertown Dormitory, Aztec, New Mexico. The motion for approval was made by Edgar Dee, Teecnospos, Arizona; and seconded by Emmett H. Begay, Sanostee, New Mexico; and the same was passed with 7 votes in favor and 0 votes in opposition.

HARRIS CHARLY,
President, Shiprock Agency School Board.

Mr. KILDEE. Since, even though I have tried by looking at the legal implications and going over it in my mind, we cannot change those deadlines in the statute, I think we have to do everything possible to enhance the dissemination of the proposed regulations to encourage the comments on those regulations.

Finally, I have personally committed myself to oversee the comment review process itself. The review of the proposed regulations by tribes and the comments they make are not a pro forma exercise. Congress does not put time for comments in for a pro forma purpose. We expect those comments to be considered. They are vital to the integrity of the process and the quality of the product.

I think the Bureau intends to make good use of the input obtained. I do not want to give any contrary impression. I do, however, feel those in positions of tribal trust have a right to feel that congressional commitment is also involved and while I was out in the field, I personally committed myself to try to enhance this comment situation.

In future hearings, we will explore the other Bureau tasks. In particular, we will soon schedule a full hearing on the formulation of the Bureau standards which we have many concerns about. For the moment, the current task forces are of special note and they will be heard today.

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Do the other members of the committee have any opening statements to make?

Mr. WILLIAMS. Mr. Chairman?

Mr. KILDEE. Mr. Williams.

Mr. WILLIAMS. I would like to note two of my constituents are here today and although I have not met Mr. Gerard, I know of your good work, sir, and I commend you. Earl and I are old friends and I again want to welcome you to Washington, Earl. The bumper stickers on the Blackfoot Reservation are still there and they say, "Barlow works for the BIA." I suspect the BIA is going to be better off for it and so is the Blackfeet Nation along with other Americans and Indians throughout the land. It is nice to see you both here.

Mr. KILDEE. Mr. Goodling?

Mr. GOODLING. Mr. Chairman, I have no comments.

Mr. KILDEE. Mr. Hinson?

Mr. HINSON. Mr. Chairman, I do not have any comments.

Mr. KILDEE. We will have the panel consisting of the BIA people start in whatever order they have decided upon, and I can probably guess that order.

STATEMENT OF FORREST GERARD, ASSISTANT SECRETARY FOR INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

Mr. GERARD. Thank you, Mr. Chairman.

I would like to point out that this is only my second appearance before this committee. Normally the jurisdiction for Indian matters falls under the Interior Committee on this side, the Temporary Select Committee on Indian Affairs in the Senate. The jurisdiction for Indian education was transferred over here. We commend the work of this committee. We know a lot of thoughtful research and field investigation preceded the actual drafting of the legislation which led to the public law we will discuss today. The committee is to be commended for this effort.

We welcome the opportunity to appear before you today to discuss our implementation of the provisions of title XI of the Education Amendments of 1978. Accompanying me are Deputy Assistant Secretary, Rick Lavis and our new Director of the Office of Indian Education, Mr. Barlow.

Mr. Lavis has had the general responsibility for the implementation of title XI and will explain our efforts in detail in his statement. I would like to briefly discuss a more general topic, one which impacts greatly on our implementation efforts, the Bureau of Indian Affairs management improvement programs.

First, as this is Mr. Barlow's first appearance in his new capacity, I would like to take a moment of the committee's time to indicate the fine experience and expertise he brings to the Bureau of Indian Affairs.

Mr. Barlow is a fellow tribesman and Montanan and has served as superintendent of schools in Browning on the Blackfeet Indian Reservation since 1973. He has also served as Montana State Supervisor of Indian Education and has worked for 30 years as a teacher, principal and education program administrator.

His successful work with diverse tribal groups at the State level of planning programs will be invaluable at the national level as will be his experience as a teacher at Montana State University, a superintendent of schools in three different school districts and an administrator of statewide education programs for the educationally disadvantaged.

His 18 years as a teacher on the Flathead Indian Reservation beginning in 1948, gave him a firmly established perspective of what works and why at the reservation level.

He was appointed by the Governor of Montana to a 7-year term on the Montana Board of Public Education and was elected chairman in 1976 where he served until his resignation in 1979.

Mr. Barlow has direct line authority to me. Having him as Director gives me great confidence that Public Law 95-561 will be implemented and the other Indian education programs we administer will be carried out in the best possible manner. He brings to this position new ideas and approaches and has made implementation of Public Law 95-561 his highest priority.

I would like to return to the general BIA organization now taking place and provide a context within which to view our education implementation efforts.

Last year, Secretary Andrus' task force on BIA reorganization made a number of recommendations on how the Bureau might be better managed. After reviewing these recommendations, a management improvement program was established in my office under my personal direction. The major elements of the program are as follows.

One, an automatic data processing project which will enable us to expand our ability to provide management information to all Bureau levels with the strong emphasis toward facilitating operating decisions at each reservation. The project also aims at responding to sharp criticism of the Bureau's information and ADP systems as being outdated, unresponsive to management needs and inefficient. The BIA is developing new information systems, acquiring new computer capability and converting to the new system. It is an extensive project proceeding through fiscal year 1980 and then to fiscal year 1981 before its full impact is realized.

Two, Project Integrity, is a broad scale effort to improve system integrity in the use of funds. The goal is to strengthen the control processes over budget and program execution and to provide management with more monitoring capability and better tracking mechanisms. A prime element of this project is a contract with Price, Waterhouse and Co. The final report on this contract is due September 30, 1979, an 8-month acceleration. BIA will implement acceptable recommendations during fiscal year 1980.

A training and technical assistance report which has been submitted to me is a third element. I have already approved the concept of consolidating some of the Bureau's technical assistance units and focusing the responsibility for a coordinated policy in one office. The Bureau is implementing this decision now and it will carry it forward in fiscal year 1980.

Fourth, an administrative services center project, which is aimed at improving BIA responsiveness to managers by calling out unnecessary layers of review, streamlining our administrative work flows and centralizing certain mechanical administrative processes in a common services center, if the desirability of such a center is proven by further review and testing. We expect to complete our ongoing reviews in fiscal year 1980.

The field operations review is reviewing the functions, roles and responsibilities of Bureau area offices and strengthening through decentralization the management and program capability of agencies. The area by area reviews now underway will be completed in fiscal year 1980.

The central office review is closely tied in concept to the area reviews and is one, to insure that the BIA central office is properly organized to fulfill staff responsibilities of a Federal agency headquarters organization and two, to decentralize work of a purely program operations nature to the appropriate field level. This project which is also underway, is expected to be concluded in fiscal year 1979 with recommended changes implemented in fiscal year 1980 in concert with the results of the field review.

Just departing from my statement for a moment, Mr. Chairman, I think it is obvious that there are a fair amount of dynamics underway in the management improvement area within the Bureau at the present time.

Turning now to the subject matter at hand, title XI of Public Law 95-561 prescribes broad and sweeping changes to the functions, organization, structure, and operations of the entire educational system of the Bureau. We have attempted to integrate these changes with our management improvement program.

We have put off decisions and held options throughout that process in order that we might incorporate the views and recommendations we receive from the various task forces established to help us implement the new public law.

With the committee's concurrence, I would like to submit a copy of our management improvement program for the record and will be happy to answer any questions you have regarding it and its impact on the Office of Indian Education.

Mr. KILDEE. Depending on its length, it will be inserted into the record or otherwise it will be kept in the file.

[The document referred to above follows:]

SPECIAL REPORT
ON THE
MANAGEMENT IMPROVEMENT PROGRAM
IN THE
BUREAU OF INDIAN AFFAIRS

December 29, 1978

By: Forrest J. Gerard
Assistant Secretary--Indian Affairs
Department of the Interior

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

FOREWORD

The Bureau of Indian Affairs was established in 1824 in the Department of War, and later moved to the Department of the Interior upon its creation in 1849. Over its century and a half history, the BIA has served as the instrument for implementation of Federal-Indian policies set by the Congress, the Courts, the Executive and by public opinion. Thus, the BIA has existed through the Indian wars, operating under misguided and failed Federal-Indian policy directives arising from the eras of extermination, assimilation and termination - all of which have been rejected in the Courts and repudiated by every Congress and Administration since the 1950s.

As a result of the history of conflicting policies and countervailing forces in the dynamic field of Indian Affairs, the BIA has been both used and viewed as the focal point for criticism of the Federal-Indian relationship, while the agency itself has been in a serious state of upheaval and neglect and in dire need of reform. With the Congressional reformation initiatives of this decade, the BIA has undergone significant operational and functional change in its dealings with the American Indian and Alaska Native governments and peoples. These changes result primarily from the mandates of the Indian Self-Determination and Education Assistance Act of 1975 and the public call for governmental efficiency and greater local control.

Today, the largest agency in the Department of the Interior, in terms of budget and personnel, is the BIA - as befits this unique agency which serves some 496 Federally-recognized Indian and Alaska Native tribes, nations, pueblos, villages, bands and rancherias. As the Assistant Secretary for Indian Affairs, I view my obligations to the Indian and Alaska Native people and to the Administration and the Congress as consistent and compatible: to oversee and provide policy direction for an agency that is effective in its trust and related service-delivery system; efficient in its use and control of money and financial-management systems; and ethical in its dealings with the Indian people.

I take these responsibilities most seriously. In meeting these obligations, I have initiated a series of management-improvement actions to effect institutional change in the functions, structure, policies, procedures and services of the BIA. As Assistant Secretary and as an Indian tribal member, I am committed to meeting the highest standards in the fulfillment of these obligations, to organizing the BIA, and to setting in motion processes and systems that will serve the Indian people long past my own administration.

It is with these thoughts that I share this report on certain management-improvement steps taken during my first year as Assistant Secretary for Indian Affairs. I welcome your comments on these initiatives, thanking you for your attention to this aspect of Indian Affairs.

Forrest J. Gerard

Forrest J. Gerard

This Special Report from the Assistant Secretary - Indian Affairs describes the major corrective actions that have been instituted, and are ongoing, to address the documented deficiencies reported by:

- Congressional Appropriation Committees.
- General Accounting Office.
- Civil Service Commission.
- General Services Administration.
- American Indian Policy Review Commission.
- Department of the Interior Task Force on

  Bureau of Indian Affairs Reorganization.

Generally, the studies and the reports from these groups raised serious questions and deep-seated concern regarding the management and operations of the Bureau of Indian Affairs (BIA); the policies that govern the organization; the function, role, and responsibilities for providing services and programs to Indian Tribal governments and Alaska Native villages; the processes and impacts of Bureau operations on constituent Tribal governments; and, the effectiveness, efficiency and equity of Federal-Tribal intergovernmental relations.

Upon assuming office in September, 1977 as the first Assistant Secretary for Indian Affairs in the Department of the Interior, Forrest J. Gerard pledged to address and resolve the long-standing issues that had been the legacies of neglect and indecision. Basically, the concerns that the Secretary of the Interior, the Under Secretary, and the Assistant Secretary - Indian Affairs had were two-fold:

- To strengthen, protect, and enhance the fiduciary relationship between Tribal governments and the Federal system.
- To improve and continue unimpaired the delivery of authorized services to Indian and Alaska Native people.

The studies and reports from the cited sources provided sufficient substance for the Bureau of Indian Affairs to begin internal reforms for adequately fulfilling its paramount advocacy role for Indian affairs in the government.

With the cooperation of the Secretary and the Under Secretary of the Interior, a Management Improvement Program (MIP) was initiated in the Office of the Assistant Secretary - Indian Affairs under the direct control of a Program Manager.

This Special Report serves to review the specific steps taken in the Bureau of Indian Affairs to institute basic and substantive management approaches for self-correction of operational defects in the organization.

The major published criticisms of the Bureau of Indian Affairs (BIA) have occurred within the past three years. Briefly, an overview of each follows.

- During the FY 1978 budget hearings on the appropriations for the Bureau of Indian Affairs, both the House and Senate Subcommittees severely criticized the BIA witnesses and questioned the ability of the Bureau and its employees to deliver authorized services to Tribes in a timely and effective manner. In the FY 1979 appropriation hearings, additional questions were raised on a number of operational and management issues that the Bureau needed to resolve if it was to serve as a provider of trust and governmental services to reservation and village authorities.
- Beginning in 1975, the U.S. Civil Service Commission conducted a number of personnel management evaluations of both headquarters and field programs of the Bureau. These studies pointed out serious deficiencies in the Bureau personnel system: career development, upward mobility, merit promotions, affirmative action, Indian preference, and Equal Employment Opportunity aspects. Cognizant of its responsibilities, the Bureau developed a management plan to change the personnel management practices of the organization. This plan included the appointment of a Project Manager in January, 1977, with reassessments provided in September, 1977 and March, 1978.

- The General Services Administration analyzed the Bureau's school facilities construction and maintenance program for the Department of the Interior. Their report of November, 1977, identified operational problems that Bureau management could resolve to improve or correct organizational and operational deficiencies. A two-phase approach was recommended: to develop a master plan; and then, implementation of a program in accordance with that plan.

- The American Indian Policy Review Commission was established by Congress under P.L. 93-580 on January 2, 1975. From 1975 to 1977 their investigative efforts produced an in-depth analysis of Federal policies and procedures relative to Tribal governments and Indian people. The report of May, 1977 reflected 206 Commission recommendations as the product of eleven Task Forces. A related management study of the Bureau of Indian Affairs was completed in September, 1976 by the Commission with recommendations on the budget, personnel, and management systems.

- In December, 1977, the Secretary of the Interior established a Departmental Task Force on Bureau of Indian Affairs Reorganization. This action was based on commitments made to the Congress by the Under Secretary and the Assistant Secretary - Indian Affairs earlier in 1977. The Task Force focused on the functions and structure of the Bureau in its 36 recommendations submitted to the Secretary in March, 1978.

- Finally, a series of ten audit reports were presented to the Congress in February, 1978 by the General Accounting Office (GAO). These reports were wide-ranging and touched on major Bureau program operation and administrative efforts. Requested by the Congress, the GAO reports were available for the FY 1979 Congressional appropriation hearings involving the Bureau of Indian Affairs.

The crux of these studies, findings, and analyses focused on the major policies, programmatic implementation, organizational systems, and services delivery of the Bureau of Indian Affairs. In most instances, the Bureau was found wanting in the management planning, executive control, and staff communication areas essential for the timely provision of human resource and welfare services.

The challenge - and the opportunity - to the Office of the Assistant Secretary and the Bureau of Indian Affairs was to be responsive in initiating internal reform measures for management and organizational development.

DISCUSSION

With the receipt of the Departmental Task Force Report on BIA Reorganization on March 31, 1978, the Office of the Assistant Secretary and the Bureau staff proceeded to analyze all of the studies and to devise an appropriate and responsive management approach for ameliorating or solving the problems.

After detailed discussions, the decision was made to establish a Management Improvement Program (MIP) in the Office of the Assistant Secretary for Indian Affairs. To address the most pressing issues that had been raised, existing Bureau efforts and new initiatives were organized under the MIP umbrella and the control of a Program Manager. Both organizational and functional concerns came under its purview.

The Assistant Secretary - Indian Affairs resolved to utilize the investigative reports as management tools for altering the functional complexion of the Bureau of Indian Affairs to better serve constituent Tribes.

The following sections provide status reports on the MIP activities and related management approaches that are current and ongoing in the Office of the Assistant Secretary and the Bureau of Indian Affairs.

MANAGEMENT IMPROVEMENT PROGRAM

Following the publication on March 31, 1978, of the Secretary's Task Force Report on BIA Reorganization, the Assistant Secretary - Indian Affairs instituted a thorough analysis of the recommendations contained in the Report. This analysis considered not only the thirty-six Task Force recommendations but also the findings raised by the General Accounting Office and the American Indian Policy Review Commission.

Bureau of Indian Affairs Planning/Review teams worked for three months to prepare alternative strategies for the Assistant Secretary's decision. As options were developed, concise and complete Action Plans were prepared should a particular option be selected by the Assistant Secretary for implementation.

During July and August 1978, the Assistant Secretary - Indian Affairs studied the options of the Planning/Review teams and executive decisions were made from among the alternatives presented. These decisions were transmitted to the Secretary of the Interior on September 19, 1978. Secretarial approval was given to the Assistant Secretary's implementation concept.

The Assistant Secretary - Indian Affairs then established a Management Improvement Program (MIP) to direct the implementation of his initiatives. This Program was organized to include the following component projects: Management Improvement Project-Field Operations (page 11), Information

Systems Development Project (page 15), Project Integrity (page 20) and Training and Professional Assistance Center Project (page 28). Functional statements describing the responsibilities of each project have been prepared and Project Managers appointed.

These actions have been taken that are consistent with the Assistant Secretary - Indian Affairs' proposal to implement management improvements:

- Appointment of an Acting Deputy Commissioner of Indian Affairs to serve as chief operations officer for the Bureau of Indian Affairs. Recruitment to select a nominee to fill the Commissioner's post is in progress.
- Submission of Manual Part 109 to the Department of the Interior to formally establish in its directives system two staff-level offices within the Office of the Assistant Secretary (Policy, Planning, and Evaluation; and, Management Oversight).
- Submission of Manual Part 130 to the Department of the Interior directive system to establish the Commissioner of Indian Affairs as the operational head of the BIA.
- Initiation of Area Office reviews, with the Minneapolis and Juneau Offices designated as the first offices to be reviewed before the end of the

second quarter of FY 1979. A plan of action for modifying these field installations will then be presented to the Assistant Secretary - Indian Affairs. Implementing these plans will require the current and succeeding Fiscal Years, at a minimum.

- Development of a concept and a plan for an Administrative Services Center to facilitate the processing of administrative actions.
- Preparation of Action Plans to implement the Assistant Secretary's decisions as proposed on September 19 to the Secretary of the Interior.
- Developmental plans for a centralized Training and Professional Assistance Center will be available in April 1979.

The degree of reorganizing which will result from the planned reviews is, as yet, unknown. The Assistant Secretary - Indian Affairs has emphasized that reorganization will be undertaken only if it is required to effect management improvements. The Assistant Secretary's prime motive is to make management improvements rather than to reorganize for cosmetic reasons.

The Management Improvement Program (MIP) initiatives of the Assistant Secretary - Indian Affairs have not yet had time to produce a significant impact on issue resolution. The full benefits of these projects are several years away as the focused activities are folded-into the overall management operations of the organization. However, some spin-off benefits will be realized as the total effort moves forward toward completion.

FIELD OPERATIONS

This sub-activity of the Management Improvement Program (MIP) consists of two major activities:

- Definition of the functions, roles, and responsibilities of Bureau of Indian Affairs Area Offices.
- Planning and development of an Administrative Services Center.

Functional statements describing the responsibilities of this project have been prepared and a Project Manager appointed. The Project Manager performs his tasks under the aegis of a Program Manager who reports to the Assistant Secretary - Indian Affairs. The mandate for this sub-activity is based in the recommendations of the Department of the Interior Task Force Report on BIA Reorganization submitted on March 31, 1978, to the Secretary of the Interior.

BIA Area Offices

- These Bureau facilities will be reviewed as to their function and structure. Action Plans have been developed for the first reviews involving the Minneapolis and Juneau Area Offices. These reviews will be carried out during the balance of this Fiscal Year.

- The second activity relates to the implementation of P.L. 95-561 (the Education Amendments of 1978) and P.L. 95-471 (Tribally Controlled Community Colleges). The Field Operations Project Manager's role will be to determine the type of administrative support which will be required by the entire Bureau of Indian Affairs. This aspect is related to the Administrative Services Center concept outlined below.
- The third activity contributes to the development of the BIA budget process for FY 1981, particularly as the process relates to the Bureau's field operation.

Administrative Services Center

The establishment and organization of an Administrative Services Center are based upon the need to integrate administrative processing; and, to decentralize administrative responsibility to the lowest operational levels in the Bureau of Indian Affairs. Currently, these administrative functions are generally characterized by fragmented levels of administrative authority, e.g., payments and payrolls at the BIA Area Office levels. There is no meaningful control over the authorities needed to conduct reservation programs. Administrative processes initiate mainly at the BIA Agency Office levels which have minimal control over priorities or response times. Hence, use of automatic data processing (ADP) technology should facilitate processing and provide greater access to data for use by BIA managers.

The initial activities related to the Administrative Services Center will focus on BIA procedures and work-flow processes. An Administrative Services Center will be established for Bureau-wide administrative processing. The following action steps have been instituted:

- Contacts have been made with other Interior Department agencies having Administrative Services Centers to discuss authority levels, processing mechanisms, organizational problems, and suggested approaches the Bureau of Indian Affairs should consider in establishing an Administrative Services Center of its own.
- Preliminary Task Force work topics have been identified and individuals have been contacted to serve on the various groups. The initial Task Force meeting is planned for January, 1979 to discuss concepts, methodologies, and operational approaches.
- The Work Plan milestones call for an Administrative Services Center performing some of the more easily modified functions, by October 1, 1979. More complex functions will come on-line at a later date.

One of the basic themes implicit in the thirty-six recommendations of the Departmental Task Force Report on BIA Reorganization and subsequent Bureau reviews is: the critical need for responsiveness on the part of the BIA administrative operation to managers at all organizational levels, to constituent Tribal governments, and to Indian clients. Presently, administrative authority levels are not consistent with program delivery responsibility. Work flow is often characterized by duplicative reviews that add complexity, confusion and delays.

The purpose and scope of the Administrative Services Center review is to analyze and redesign the administrative work flow to mandatory requirements for effectiveness and efficiency at the service delivery level. The use of an enhanced ADP capability throughout the Bureau of Indian Affairs should also aid in maximizing organizational responsiveness.

INFORMATION SYSTEMS

Deficiencies in the Bureau of Indian Affairs (BIA) Information Systems have been characterized as being unresponsive to the needs of the Indian community, inefficient in their construction, time-consuming to operating officials, oriented unduly toward administrative efforts, and using obsolete and unreliable computer equipment.

On April 21, 1978, the Assistant Secretary - Indian Affairs announced to the Secretary of the Interior and the House Appropriations Subcommittee that he would pursue a new approach to Information Systems development. The policies inherent in his new approach were that the Bureau of Indian Affairs would:

- Develop standardized automatic data processing (ADP) systems applications, with options for local operations to elect the use of those systems to meet their needs.
- Centralize ADP policy-making and the determination of major system development priorities.
- Decentralize computer operations by installing mini-computers and terminals to meet local needs.
- Centralize the capability for management information
- Provide a user-charge system for all ADP services.

To meet the above requirements, an Information System Development Project was formed on June 23, 1978 and became part of the overall Management Improvement Program (MIP). Significant decisions and major actions to improve the information activities are:

- Central Office data processing activities in Albuquerque will operate as a Service Center in Fiscal Year 1979. This organization will not be allocated funds of its own. Therefore, it will be fully dependent on its ability to solicit and provide services on a reimbursable basis. The size of the Center will be based solely on its ability to compete with other sources of services.

- The computer system utilized will be a distributed equipment configuration. It will consist of a Central Office capability, Area Office computers, and Agency Office terminals. These locations will be tied together through communication links. The Central Office capability will be provided under contract and the existing obsolete equipment will be phased out.

- Users will be allowed to determine needs for systems and to specify their development. The Central Office facility may provide services on .

a reimbursable basis. Controls, however, will be exercised to assure compatibility of data bases, common programming languages, transferability from one agency to another, and proper documentation. The users will be in control of what is developed and computer personnel will control the standards on how it gets developed.

- The existing system in the Bureau's Billings Area Office - the Integrated Records Management Systems - will be considered for expansion as the Bureau's major operating level information system.

In response to the newly established policies of the Assistant Secretary - Indian Affairs and the decisions made, the following action and time schedules are planned:

- Programming effort is now underway to convert all Central Office systems in Albuquerque to new computers. This will be complete by the end of this Fiscal Year.
- A proposal for expansion of the Billings Area Office Integrated Records Management System is being circulated for comment. Interim arrangements have been made with the Department of the Interior's Bureau of Mines to process these data

initially, until BIA Area Offices receive computers. We will initiate the plan in December, 1978.

- An organizational plan for Information Systems Development is under consideration. An analysis of impacts is now underway. It separates the information function from administration, supports the reimbursable center concept, and strengthens the control activities to Bureau-wide function. This analysis will be completed in January, 1979.
- The work order system was implemented to support a reimbursable operation on October 1, 1978. Reporting programs and instructions will be complete in March, 1979.
- A computer procurement is being developed to acquire computers for each of the twelve BIA Area Offices and terminals for each of the 83 BIA Agency Offices. To support this requirement, a contract will be issued to determine computer sizing needs. The equipment procurement will be made before the end of this Fiscal Year.
- Several major Management Information Systems are being developed for the BIA Education, Indian Services, and Trust Services Offices

in Washington. Plans for these systems are being developed by the user Offices.

- The documentation and manuals describing standards and controls are being updated to reflect the Service Center approach and the control requirements for a distributed computer system. This updated information is expected to be complete concurrent with the installation of new equipment.

The major thrust of the above plan by the Assistant Secretary - Indian Affairs is to upgrade the ability of the Bureau of Indian Affairs to manage its service, trust, and administrative programs. It strongly emphasizes the provision of information to the operating level for Bureau and Tribal government personnel to effectively manage and administer activities on the reservation. Additionally, the administrative processing requirements of the BIA wil be reviewed and revised to make maximum use of the distributive processing capabilities. However, it also recognizes the need for information at the upper levels of the Office of the Assistant Secretary and the Bureau of Indian Affairs for purposes of providing overall planning, control, direction, and evaluation.

PROJECT INTEGRITY

The Assistant Secretary - Indian Affairs has established Project Integrity as a comprehensive effort to improve the use of Bureau of Indian Affairs funds and to assure that appropriated funds are used in accordance with Congressional mandates and Federal law and regulations.

Bureau staff will develop and implement certain of the necessary improvements. Extramural technical expertise will also bring to Project Integrity an unbiased broad-based perspective, as well as highly developed, diverse technical skills in fiscal management control systems and processes. Consultants will be used during the analysis and development phases with more reliance on Bureau of Indian Affairs personnel during implementation.

The Project was announced on April 7, 1978, and procurement requests were made available in August, 1978. The firm of Price, Waterhouse & Co. was selected as prime contractor in September, 1978 to begin a four-phase activity that consists of:

- Preliminary data gathering.
- Definition of information requirements.
- Development of financial recording and reporting systems improvement.

- Development of standards and procedures for administrative and program review.
- Final implementation of these systems developed under Project Integrity is scheduled for September, 1980.

Contractor personnel have completed three weeks of interviews with selected BIA personnel from the Central Office, two Area Offices, and several Agency Offices, and with several tribes.

The first phase of the contractor's effort (Information Requirement Definition) is the most crucial part of Project Integrity as it will lead to the specific tasks for each of the remaining phases. It is during this phase that close coordination with other management improvement initiatives of the Assistant Secretary - Indian Affairs is being established for the duration of the Project.

Project Integrity is the Assistant Secretary's management approach for acting on recommendations regarding the Bureau of Indian Affairs' control and use of appropriated funds. Project Integrity will either wholly or partially generate improvements that address issues raised by the General Accounting Office audits and the Department of the Interior, as well as several recommendations of the Secretary's Task Force on BIA Reorganization.

PERSONNEL MANAGEMENT IMPROVEMENT

The U.S. Civil Service Commission conducted several personnel management evaluations in 1974 and 1975, in addition to those initiated by the Bureau of Indian Affairs (BIA) in coordination with the Department of the Interior and the Civil Service Commission.

The defined functional problems reflected severe and consistent mismanagement related to technical and regulatory matters as well as to the systemic aspects of the personnel function.

During the early months of 1976, a major effort was made to address the significant and pervasive personnel management problems existing in the Bureau of Indian Affairs. Subsequently, on March 25, 1976, the Bureau of Indian Affairs and the Department of the Interior developed a coordinated Action Plan for improvement of personnel management in the Bureau of Indian Affairs. A Project Manager was designated to coordinate the development and implementation of the Action Plan.

Although these personnel management improvements were initiated prior to this Administration, the work continues in order to resolve the deficiencies noted in the investigative reports. The issues that have been addressed are enumerated as follows.

- To establish a program planning system for setting priorities.

- To develop the (personnel management) function into a coordinating and cooperating Bureau-wide mechanism.
- To improve operations and work methods within the (personnel management) function.
- To improve personnel operations through further application of automated methods.
- To develop and operate a manpower forecasting system.
- To institute a positive recruiting system.
- To develop and operate an Indian intern and development program.
- To issue guidelines on the application of Indian preference.
- To develop qualification standards/guidelines for major types of positions.
- To improve procedures for determining eligibility and qualifications for specific vacancies.
- To develop and operate an effective position management/classification program.

- To develop and conduct communciation workshops on personnel management.
- To conduct meaningful orientations for new employees.
- To operate a meaningful performance evaluation system.

The successful completion of the great majority of the action items has contributed to an improved personnel management program in the Bureau of Indian Affairs. Since this agenda is an internal effort to improve the BIA personnel program, the impact on Tribal governments is not a direct one. Rather, it has indirect benefit in that better qualified employees are being recruited and retained, thus enhancing the service delivery to constituent Tribes.

FACILITY MANAGEMENT IMPROVEMENTS

On July 12, 1977, the House of Representatives Conference Report (H.R. 77636) stated:

> "The conferees, in order to stimulate the Department (of the Interior) to move quickly, directed the Secretary (of the Interior) to engage the General Services Administration to supervise the planning, design, construction and maintenance of school facilities."

This mandate resulted in a field investigation of Bureau of Indian Affairs facilities. A report was presented to the Secretary of the Interior on November 1, 1977. After briefings and evaluations of the report, a Program Manager was assigned in February, 1978 to implement the recommendations under the policy direction of a Department-Bureau Steering Committee. Joint Department-Bureau teams developed a Program Implementation Master Plan that was presented to the Steering Committee on March 29, 1978.

The Master Plan was responsive to seven major areas of concern to:

- Develop a program for project management planning for facilities complete with associated funding strategies.

- Define, develop and schedule the implementation of performance standards on building operation and management.
- Establish, develop and fix standards for operation and identification of roles of facility managers and educators in the operation of BIA schools.
- Explore and develop methods to improve the manner in which BIA provides design and construction services on projects.
- Identify, develop and implement a system to re-establish facility management as a major program effort in the Bureau of Indian Affairs
- Address organization, commonality of mission, Indian preference, and training associated with BIA facility programs.
- Interface with the newly developed priority system for BIA school construction.

On May 25, 1978, the Secretary of the Interior endorsed the report and its Master Plan for implementation. He directed the Assistant Secretary - Indian Affairs and the Assistant Secretary for Policy, Budget, and Administration to proceed. A Program Manager's Office was established and appropriate staff specialists appointed.

During the past six months, the work on refining the BIA school construction priority list moved to completion. A total of twenty-nine schools for consideration in the FY 1980 budget were evaluated by educational planners and A/E firms. This resulted in a ranking system based on educational use and existing facility conditions. The ranking system was forwarded to the Congressional Appropriation Subcommittees in November, 1978.

Congress funded in FY 1979 a complete inventory of Bureau of Indian Affairs facilities. Procurement notices for interested A/E firms were made available in December, 1978.

Facility improvements will continue through the Program Manager and the Office of the Commissioner of Indian Affairs. The Department-Bureau Steering Committee maintains policy and monitoring functions to assure compliance with the Congressional mandate. And, the Assistant Secretary - Indian Affairs provides Departmental leadership and direction to the overall activity.

The foundation has been laid during the past eighteen months to build the organization and management techniques needed to bring Bureau school facilities, and particularly the educational environment for Indian children, to a respectable level.

TRAINING AND PROFESSIONAL ASSISTANCE CENTER

Over the past several years, each study group that has considered the training and professional assistance responsibilities of the Bureau of Indian Affairs (BIA) has concluded that consolidation and some form of centralized direction of these activities were necessary.

The Department of the Interior Task Force Report on BIA Reorganization and the P.L. 93-638 Task Force (April, 1978) noted these concerns with essentially identical recommendations.

During the FY 1979 House Appropriation Committee hearings, the Assistant Secretary - Indian Affairs was questioned about the Bureau's response to these cited recommendations. In these hearings, the Committee hoped the recommendations for consolidation would be implemented.

The final appropriation bill for BIA made available $470,000 in FY 1979 to develop a centralized training and professional assistance program.

The Office of the Assistant Secretary for Indian Affairs awarded a contract to Sterling Institute of Washington, D.C. to develop a concept paper that would enable the Assistant Secretary to respond to the Congressional mandate. The vital portion of the concept paper surfaced the problems that created the need, as expressed by the various studies cited.

Some of the major problems were, as follows:

- An absence of central focus and coordination in the Bureau's determination of its training/technical assistance responsibilities.
- Gaps in the availability of such services to tribes and Bureau staff who are outside the service areas of the units that offer existing BIA training/technical assistance services.
- Unreliable and incomplete data about the needs of tribes and Bureau staff.
- Continued funding of training/technical assistance activities that are not yielding good results.
- Inadequate staffing and capacity, thereby impairing the Bureau's capability of developing its own staff to respond to self-determination initiatives and making the shift from operating programs to assisting tribes in their operation of programs.

This concept paper provides planning and working guidelines for the recently designated Project Manager. Based on these guidelines, Action Plans will be developed that will point the way for the Bureau to develop and strengthen both its own human resources as well as those employed by Tribal governments.

CONCLUSION

The Management Improvement Program (MIP) is a careful start by this Administration to address the operational deficiencies reflected by numerous studies, analyses and reports.

The Management Improvement Program should be reviewed as a planned, sequential, and inter-related series of management actions that simultaneously address structural, functional, procedural, and substantive organizational elements. As examples, the Management Improvement Program deals with the form and function of the Bureau's headquarters and field offices; the performance and effectiveness of the dollars and the programs that serve constituent Tribes; the collection, analysis, storage, retrieval, and use of data as a base for meaningful decision-making; optimum better utilization of field facilities to enhance service delivery to Indian people; and, the enhancement of the human resources in Bureau and Tribal programs. Each part of the Management Improvement Program contributes its own (as well as additive) benefits to an interlocking management system.

The projects are a direct response to several challenges - the investigative reports, the mandates of the Congress, and - most importantly - the welfare of constituent Tribal members.

Under the leadership of the Assistant Secretary - Indian Affairs, the information base provided by the MIP will provide the tools necessary to deal rationally and objectively with todays' demands and tomorrows' hopes. But this change will evolve slowly. Just as it took a long time for the Bureau of Indian Affairs to drift from its assigned mission, so too will it take time to correct the organization's course to better serve Tribal governments.

Within the spirit of Tribal self-development and enlightened public administration, the MIP approach may well demonstrate the Bureau's ability to correct its own mistakes and set its course anew to meet the challenge and the opportunity of Indian people in the 21st century.

Mr. **Gerard**. Before Mr. Lavis discusses with you the details of our implementation of title XI of Public Law 95-561, I would like to make a final point about the task forces we have established to aid us in the effort.

Clearly, implementation of Public Law 95-561 and 95-471, the Tribally-Controlled Community Colleges Act, should have a field orientation and consultation with the Indian community must be an integral part of any successful implementation effort.

I believe that the regulations we promulgate pursuant to both acts should strongly reflect the views and recommendations of persons with varying backgrounds, experience, and sentiments. Regulations, if they are to work, cannot be edicts from Washington, in fact or perception.

Above all, I wanted open and frank discussions of the issues raised by the legislation from the viewpoint of tribal and Bureau delivery systems, from Indians and non-Indians and from the perspectives of teachers, parents, students, managers, from all those with a stake in raising the quality of Indian life through a higher standard of education.

I think we are well on the way to achieving that goal, Mr. Chairman. I am confident that under the direction of Mr. Barlow, the Office of Indian Education will successfully administer whatever practices and procedures our implementation effort produces.

As a final note, in my 20 years or more of experience in the Indian field, I would like to state emphatically that it is my conviction that there is a higher level of Indian participation in the implementation of this new public law than any preceding statutes approved by Congress in the past. To that end, I believe the final result of the rules and regulations will reflect the desire that you so adequately expressed this morning.

That concludes my statement, sir.

Mr. **Kildee**. Thank you very much, Mr. Gerard.

The next witness, Mr. Lavis.

STATEMENT OF RICK LAVIS, DEPUTY ASSISTANT SECRETARY FOR INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

Mr. **Lavis**. Thank you, Mr. Chairman.

Mr. **Kildee**. You may either read your testimony or summarize.

Mr. **Lavis**. I would like to read most of it, if my voice makes it. I have a slight cold.

Mr. Chairman, I appreciate this opportunity to appear before this committee to report on the implementation of Public Law 95-561 and 471.

Before I do so, I think it is important to point out, as I did before this committee last year, that it has been the Congress who has been the initiator of change in our educational programs to benefit Indian children. It was the Senate in the mid-1960's which established a Select Committee on Indian Education and which undertook a major review of Indian education. I believe its report still stands today as a landmark. It was the Congress which initiated title IV, the Johnson-O'Malley Act Reforms and the Indian Self-Determination and Education Assistance Act.

The current effort on the part of your committee continues its tradition of congressional involvement in addressing Indian education issues. You are to be commended for your enthusiasm and interest and it is my hope we can continue to work together as we have in the past to produce a quality education program for Indian children.

Assistant Secretary Gerard outlined for you the policy and principles that have guided the regulation implementation activities of the Office of the Assistant Secretary. I assumed the lead for this activity in October 1978, 1 month before enactment of the legislation.

Both pieces of legislation impose major and substantial change not only in the Office of Indian Education programs but within the Bureau itself. What we have undertaken is nothing less than establishing an educational system which will be fundamentally different in scope, in responsibility, in accountability and organizationally than what we have now. This poses great difficulties for management and programs but we believe the results will be worth the effort.

In view of this complexity and the scope of change envisioned by the legislation, the Assistant Secretary and I believe that a task force effort approach was preferable to one in-house for several reasons.

First, the policy of Indian self-determination as expressed by Congress in Public Law 93-638, served to guide our actions. That language states:

> The Congress hereby recognizes the obligation of the United States to respond to the strong expression of Indian people for self-determination by assuring maximum Indian participation in the direction of our educational services to Indian communities so as to render such services more responsive to the needs and desires of those communities.

Second, because of the far-reaching implications for change, the development of regulations had to be shared with and vested in those persons who receive the services and those who would provide them. Coupled with the intent of Indian self-determination, the Assistant Secretary's policy direction offered the best approach to implementation.

Several planning strategies were initiated in anticipation of enactment. When the legislation became law, we were ready with the key internal systems for control, coordination, and communication as well as the external procedures that needed to be instituted for constituent participation.

We decided to link the implementation of Public Law 95-471 which is the Tribally Controlled Community Assistance Act of 1978, with Public Law 95-561. We established 12 task forces, 11 addressed 95-561 and Task Force No. 12 addressed solely the Tribally Controlled Community Assistance Act.

A steering committee was appointed and again, this was done a month before enactment of 95-561, comprised of BIA specialists who had served as lead persons initially for each task force. In addition, individuals from outside the Bureau were added to the steering committee for their expertise and involvement with contract schools and the tribally controlled community colleges. As the task forces were being constituted, additional tribal members were added to the steering committee. They were chairman or co-chairman of their respective task forces.

In-house knowledge, experience and professional judgments were exercised to select a total of 22 people to serve on the steering committee to be the key individuals to oversee and activate respective task force efforts and to help us guide in the planning and policy effort in our overall implementation.

After the steering committee members had been selected and appointed, the Office of the Assistant Secretary contacted all tribal and Alaska Native leaders on a government-to-government basis, national Indian organizations, congressional committees and public and private Indian advocacy groups for nominations to serve on the 12 task forces. The Bureau received over 800 names, Mr. Chairman, within the 30-day nomination period, an encouraging sign indicating to us strong interest and concern about education in the country.

Using a variety of means for selection, based on the nominee's regional location, background, area of interest, reputation, known interest, knowledge of past performance, 150 of these 800 people were selected for the 12 task forces.

The steering committee and the task force membership provided a composite and representative group with interests in dealing with those education programs. There were approximately 54 Bureau members and 96 tribal members, that is two-thirds of the total task force membership. Of the 54 Bureau representatives, 44 were from the field. In almost all cases, Mr. Chairman, the tribal representatives constituted a majority of each task force membership. The members numbered among them professionals, tribal chairmen, teachers, parents, tribal and public school educators, contract school staff, school board members, students, and BIA officials.

These selections clearly support in our mind our efforts to insure field orientation but more importantly, strong and widespread tribal involvement.

All segments and areas of our service population were represented. For example, 11 people from Alaska, 19 from the Northwest, 59 persons from the Southwest and 21 persons from eastern regions and 40 persons from the Midwest, which is roughly proportional to the extent of our educational program in terms of numbers of schools, employees and resources in these particular regions.

To insure continuity for later operational involvement in implementing Public Law 95-561, as well as to provide much needed field orientation and understanding to the task forces in their deliberations, each of the 12 assistant area directors for education were appointed to serve on one of the task forces. One of the assistant area directors serves on the steering committee as well. In addition, Mr. Earl Barlow joined me as co-chairman of the overall implementation effort when he assumed his responsibility as Director of the Office of Indian Education programs and he has been invaluable to me in terms of helping us with this effort.

Fiscal resources in the amount of $1 million were planned for and provided to support the task force effort, for their travel and per diem expenses for official meetings, supportive clerical services for meetings, contracts to assist the task forces and related expenses.

To date, our implementation effort has expended roughly $571,000, Mr. Chairman, of this amount, $239,000 was used for contracts to support both acts. By this June we expect the amount expended to total approximately $650,000 with about $350,000 to remain unexpended for the rest of the fiscal year.

Parallel to the planning and development for the human and fiscal resources necessary for the operations of the 12 task forces, the Office of the Assistant Secretary also initiated other steps.

First, to open lines of communication on this effort, we initiated a newsletter which we produce in our own offices. Our routine mailing includes all tribal and Alaska Native leaders, all Bureau field installations, national Indian organizations, Indian media and other interested parties, as well as the committees of Congress. The newsletter will continue on a periodic basis to share information with the steering committee and task force members as well as the larger Bureau and Indian community.

Briefings have also played a significant role in our communications. In December we met with all BIA Education Administrators to identify 561/471 issues, options, and to formulate their recommendations to be considered by the respective task forces which were just being formed.

With this and other information in hand, we called our first session of all steering committee and task force members in January 1979 in Salt Lake City. This session was devoted to general discussions, review of resource materials, briefings by key support and resource persons, determination of the scope of task force assignments and the development of task force action plans.

When approved, the action plans of each task force would provide the go-ahead for addressing the task force issues. Also it would serve as a monitoring device for assessing our meeting schedules and deadlines imposed by the legislation.

A comprehensive briefing was provided to 110 BIA senior executives early this year so that they might have an input on the issues addressed by this legislation.

The steering committee members met in Washington, D.C., in February to refine and review their action plans for meeting all deadlines with an acceptable product. Early this month I convened them again to complete the steps for Federal Register publication of those regulations with the 6-month deadlines.

The steering committee and task force members will meet the week of June 4 through 8 to review public comments and revise the draft regulations for final publication on June 27.

The eleven task forces working on Public Law 561 and the one task force for 471 have worked diligently and cooperatively to meet the requirements of the legislation. Each of these task forces has met an average of almost three times throughout this country to develop the regulations to implement Public Laws 95-561 and 471.

Mr. Chairman, let me just express very strongly that the actions of these task forces have been an unselfish application of their time and energies and is a tribute to their commitment of dedication to the education of Indian children and adults. The products they provide will be circulated widely to Indian country and the BIA for comments. These comments will be carefully reviewed and considered for inclusion in the final regulations for the two acts.

Mr. Chairman, I do not consider their comments to be treated pro forma. I am sure you might want to discuss that after my statement.

Mr. Chairman, in the interest of making this oversight hearing as complete as possible, I would like to review with you the general responsibilities of each of the 12 task forces and the issues they have addressed and some of the problems they have had to face.

Task Force No. 1 is dealing with section 1101 of Public Law 95-561, it is the amendment to Public Law 81-874 and involves the determination of a new method for computing entitlements and making payments for Indian children living on trust property and being educated in public schools. It is cooperating with HEW in developing final regulations for November 1, 1980.

In addition, the work of the task force will serve as the basis for advocacy to insure that all tribal governments will clearly understand their educational opportunities under section 1101. Hearings are being scheduled throughout this country to acquaint tribes with information about Section 1101. These hearings will be getting underway early summer at approximately 24 sites.

Mr. KILDEE. If you wish, you may summarize the role of these task forces and the entire statement will be inserted into the record.

Mr. LAVIS. All right.

Task Force No. 2 is dealing with Johnson-O'Malley on the development of new distribution formula for supplemental funds. Task Force No. 3 is dealing with standards. They have an early timeframe, as you know.

Section 1125 on facilities construction has not been assigned a task force because that matter is being handled by an ongoing effort within the Department already.

Task Force No. 4 is dealing with the issue of direct line. Task Force No. 5 is dealing with sections 1128 and 1129 of the allotment formula. It is one of the hardest working groups we have been dealing with. Task Force No. 6, while there is nothing specifically required in the legislation in terms of a specific formula of school boards, Mr. Chairman, we nevertheless directed the special task force to develop rules and regulations covering governing school boards throughout the Bureau's system.

Task Force No. 7 is involved with personnel. Task Force No. 8 is dealing with the management information system. Task Force No. 9 is dealing with policies of sections 1130 and 1133. Task Force No. 10 is dealing with section 1134 to formulate Bureauwide uniform practices and procedures for its education components as it relates to other functions within the Bureau.

Task Force No. 11 is developing regulations to insure the rights of Indian students attending BIA schools. Task Force No. 12 deals exclusively with title I and II of Public Law 95-471.

Mr. Chairman, I am happy to report that the proposed regulations for implementing the provisions on direct line, allotment and direct funding, personnel, policies, school boards, student rights and for the Tribally Controlled Community College Assistance Act have been received from the task forces and are currently being reviewed for clearance with a view to immediate publication. The one omission there from my prepared statement is the school boards which has yet to be received but I understand they are in the final process of typing and it should be here by the end of tis week or the first part of next week.

Mr. Chairman, we have, as you know, a number of requirements under this act. I would like to report that we have completed many of those requirements. We have dealt with the question of section 1103. Second, we published as required by the act a list of alternative formulas for distributing Johnson-O'Malley program funds under section 1102.

Under section 111 of Public Law 95-471, we were required to provide a survey of existing tribal college facilities. That report was completed and submitted to Congress on February 13th. Section 112 has a contract awarded to survey the academic needs of tribal colleges. That contract is underway and will be completed on time. I believe that is a November 1 deadline.

Section 203 of Public Law 95-471 requires an academic facilities needs study of the Navajo Community College. A contract was awarded for that study and that would be provided to Congress on or before August 1 which is according to the act.

Mr. Chairman, I want to reaffirm the Assistant Secretary's commitment that we intend to meet the mandates of Public Law 95-561 and 471. The Office of the Assistant Secretary, the Bureau of Indian Affairs and the task forces have been working diligently to comply with these statutory mandates of these two acts.

As we move toward completion, Tribal constituents and BIA staff will each have ample opportunity to review the proposed regulations and recommend revisions. The steering committee and task force members will analyze all public comments and help modify the draft regulations accordingly. The analyses and revisions insure the continuing involvement of those persons responsible for the initial products as well as ensuring the continuing Indian participation.

When the final regulations are published in the Federal Register, the Assistant Secretary and I view this event as the commencement rather than the completion of our organizational efforts to evolve meaningful change in Bureau teaching systems.

Appropriately, we have involved Mr. Barlow as a principal implementation effort. As the regulations become final, we will transfer the operational elements of these two acts to his office for institutionalization of the regulations. Mr. Barlow and his Education staff who are members of the task forces and steering committee will provide a thread of continuity from the area of policy planning to that of operations. The Office of the Assistant Secretary will assume a supportive role in providing policy guidance and management oversight consistent with congressional intent, the legislation and final regulations.

In this connection, Mr. Barlow and I with the help of the Assistant Secretary's management improvement staff have arranged with the Price-Waterhouse Co. to assist us in the most difficult phase of this implementation effort, that is the implementation of these rules and regulations on an operational basis. Price-Waterhouse, who has been working with us on the Project Integrity program for almost a year, has the capacity and the firsthand experience with the Bureau to advise us in adopting management strategies to accomplish the next phase of implementation efforts.

Two major interests will occupy our attention in the next few years. First, we will need to develop and improve the financial and personnel management skills of local school boards and BIA staff so each entity may best execute their duties under the law. Second, the Office of the Assistant Secretary and the Office of the Commissioner of Indian Affairs will begin to deal with the major functional changes and structural components of the area and agency Offices. These line managers and supervisors will carry out the dynamic and pervasive changes envisioned by this legislation.

It will be our responsibility to make this committee and the Congress aware of the progress we achieve and the resources we need to move toward our common goal of quality educational programs for Indian children, adults and tribal governments.

Mr. Chairman, this completes my statement.

Mr. KILDEE. Thank you very much, Mr. Lavis. We will now hear from Mr. Earl Barlow.

STATEMENT OF EARL BARLOW, DIRECTOR OF INDIAN EDUCATION PROGRAMS, BUREAU OF INDIAN AFFAIRS

Mr. BARLOW. Mr. Chairman, I do not have a formal prepared statement. I would like to express my gratitude for the opportunity to appear today in a new role and a new capacity. As I renewed acquaintances with all of my friends, it was a pleasure to greet them. It is a very competent staff. Also, it is a real pleasure for me to greet in an official capacity a very outstanding Congressman from Montana's First District and although Congressman Williams and I go back as old friends for good many years, I assure you that in carrying out his duties as a Representative from Montana, he will not let that friendship enter into his decisions and I appreciate that.

The interest and commitment of the committee has been very gratifying to me. I certainly want to express my appreciation to you on behalf of the Indian people and Alaskan Natives.

This particular implementation effort represents the most massive effort in my judgment in the history of Indian Affairs to implement a law.

That concludes my statement, Mr. Chairman.

Mr. KILDEE. Thank you very much, Mr. Barlow.

I think in deference to our member from Montana, the Chair will yield to him for questions initially.

Mr. WILLIAMS. Thank you very much, Mr. Chairman. I appreciate that.

Mr. Gerard, you mentioned, as I recall, the field review and the effort to strengthen through decentralization the area offices. Would you describe for me in some additional detail that effort?

Mr. GERARD. I would be happy to, sir. Over the years, the area offices have been targeted by Indians, congressional studies and other objective reviews of the Bureau of Indian Affairs as a bottleneck in the decisionmaking process and the carrying out of Indian programs, including education, of course.

What we have undertaken is an area by area review by a team of highly qualified individuals. What they have discovered is there are about 105 processes that are being carried out in these offices, many of them being duplicated and accounting for a lot of the delay in processing just routine vouchers and things of this nature.

What we are trying to move this toward and as indicated in my statement, if the review warrants it, we hope to identify a lot of the common threads of administrative support, fiscal, personnel, procurement and so on, that run through the 12 area offices of the Bureau of Indian Affairs, lift those out and establish them in an administrative service center. This is not a new idea. The National Park Service, the U.S. Forest Service and others already utilize that in order to support the field.

The second half of that review I think is perhaps the most critical. We are examining further the other authorities within the area offices to determine which ones might be redelegated to the lowest level of operation within the line and staff function of the Bureau, namely the local agencies. In short, we are addressing what we consider to be a problem and an issue that has been targeted by the Indians themselves and a number of other studies conducted over the years. We are pursuing this with a great deal of dedication and seriousness.

Mr. WILLIAMS. Mr. Lavis, on page 10 of your submitted testimony, you point out a difficulty with Task Force No. 9 with regard to the method in which you are proceeding. Will you describe that in some more detail?

Mr. LAVIS. Yes, sir. The difficulty with this legislation, Mr. Chairman, and it is really a minor one but it imposes a difficult way of doing business. The way I think we should have done it, and I think this is a matter for both the executive branch and the legislative branch is, to have set up the provisions in such a manner to address the standards and policies at the front end, having done that, we would have been able to drive those standards and policies through our functions and process.

What we have done here is establish the functions and the process and then we wait until the end to do the policies and standards which means when we get through doing the standards and policies, we are going to have to go back and make some adjustments to certain of those functions.

For example, on the formula. Establishing a formula per pupil basis, if you decide in your residential schools or your off reservation boarding schools that you want a staffing ratio of say 1 to 3 or 1 to 6 in your boarding schools or in your dormitories, you have to reflect that back through your formula somehow so you will pick it up and that is going to be established by the standards.

That is all we are saying. It is going to pose a problem but I do not think it will be that critical.

Mr. WILLIAMS. You mentioned toward the end of your statement the effort to improve the personnel and financial management skills of school board members, I assume, and staff and BIA staff. How do you anticipate proceeding with that?

Mr. LAVIS. Congressman, I think the real challenge of this legislation and what really excites me is we are going to be moving to a different way of relating to the Indian community. We are going to be driving our program to the agency level on our direct line functions. We are going to be shifting the authority of the school boards from an advisory one to an authoritative one, to be involved with financial planning and able to make personnel judgments. In addition, under the allotment formula, we are required to make allotments directly to the schools themselves.

Those managers at that level are going to have different responsibilities. The school boards are going to have tremendous, important and far reaching responsibilities.

I think what we need now is an ongoing effort to provide a training system to do that. The allotment formula as proposed within the regulations would provide an ongoing basis for funds to each school site to assist on an annual basis the training of school board members. They have that capacity to make those kind of judgments, financial responsibility as well as the personnel management responsibilities, which are going to be made at their level now and not at other levels as it has been in the past.

Up to this point, we have just identified the problem and we know we are going to have to be developing a training program. Mr. Barlow has begun to put together staff work in an organized package or program for training itself. He has had great and wide experiences. He may want to speak to that issue.

Mr. BARLOW. Mr. Chairman, the theory of Indian control is appealing. My primary responsibility is to preside over the orderly gradual transfer of the responsibility for the control of Indian education to the Indian people and the Alaskan Natives. "Indian control" would be the key phrase here.

What I am aware of and concerned about are some obvious examples of situations in the past where this type of control was passed onto the people without proper preparation for them to assume this responsibility. It is critical that we provide for training and prepare the Indian people to assume this very important responsibility of managing and controlling the education of their children.

Mr. WILLIAMS. Mr. Chairman, one final question to Mr. Barlow, this is the question you are addressing with that statement. As Mr. Gerard noticed, Mr. Chairman, Mr. Barlow has been in the front line of education and primarily Indian education for 30 years as a teacher and administrator.

Given that classroom and administrative experience of yours, if you had to pick a couple of areas, a couple of pressing needs of Indian education, a couple of specifics which needed improvement now, what would they be, what would you tell this committee?

Mr. BARLOW. I will be moving full speed, Congressman, in the area of improving the academic programs offered to Indian children. Hopefully, what I will be doing is implementing a program of bringing quality education to Indian children.

I am confident that we are sophisticated enough that we know how to do this. It will involve the bringing of the Indian people and Alaskan Native people into this process. For example, we can no longer afford the luxury of leaving the learning of Indian children to chance.

If I were to describe probably one of the greatest challenges facing educational leaders in this country today, it would be answering the challenge of how do you bring quality education to the culturally different people of this country, the educationally disadvantaged people.

We will be addressing the academic part of this, bringing in the kinds of teachers and administrators that know how to deal with this successfully.

That would be my No. 1 priority.

Mr. **Williams**. Thank you, Mr. Barlow.

Mr. Chairman, I want to ask your forgiveness. I have to leave for another meeting. I also ask the forgiveness of the witnesses. I appreciate your generosity in allowing me to ask questions.

Mr. **Kildee**. You are very welcome, Mr. Williams.

I will ask a few questions before deferring to Mr. Hinson.

I want to commend you on what you have done thus far and recognize the comprehensive nature of your undertaking on this. Nevertheless, on our field trip last week, we found some problems. They give rise to the questions which I will ask you and hopefully will get some clarification on.

Virtually everywhere we went we found a lack of information both for BIA personnel, community groups and school boards particularly, who will be assuming a great responsibility under Public Law 95-561, and the tribal personnel.

There seems there must be a breakdown somewhere in the information system. I would like to have you detail that system a little more. For example, how many copies of the Public Law 95-561 newsletter have been sent out and what has been in that newsletter?

What can be done to remedy what we perceived to be a deficiency in the dissemination of information? What can be done to remedy this immediately and what about in the future?

Mr. **Lavis**. Let me see if I can get the numbers for you. The first run of the newsletter was approximately 1,000. The scope of the constituency was roughly the Bureau, tribal governments, the Congress and any groups that we have on our mailing list and we have a large mailing list.

Mr. **Kildee**. What about members of the school boards?

Mr. **Lavis**. No, sir. We have not covered that as of yet.

Mr. **Kildee**. I would suggest that is an area where we really could enhance our informational system.

Mr. **Lavis**. There is no question, Mr. Chairman, as massive as this effort is, it does pose a serious communication problem. The process of getting that information out to the Indian community to get it disseminated within the community itself is difficult sometimes. We know of cases where you have to figure on a month perhaps in Alaska to get the materials down into those villages.

We are doing everything we can. We have a very short staff at this point in terms of managing that kind of effort but we are trying to do the best we can with the resources we have. We will add the school board people to our list.

Mr. **Kildee**. That would be helpful for two reasons. First of all, just for the information and secondly, just to let them know that they are assuming a greater responsibility in the delivery of educational services.

Mr. **Gerard**. Mr. Chairman, may I comment on that?

Mr. **Kildee**. Yes.

Mr. **Gerard.** I think we are talking here about information that should be shared with a variety of individuals and admittedly we have problems covering the field given the geography and the dispersion of Indian people. Nonetheless, I have currently underway a review and assessment of the public affairs effort of the Bureau of Indian Affairs. Within the next several weeks, we fully expect to make some substantial changes to try to improve our lines of communications with the tribes, the organizations and others who are interested in our field.

Second, I think it is obvious from my brief description of the management improvement program that we need to think in terms of updating the automatic data processing equipment as quickly as possible in order to be able to store, retrieve and communicate the needed information to managers at all levels. This is one of the real serious problems in the Bureau at the present time.

I would just like to again impress upon the committee that concurrent with the implementation of this important act, there is this broader management improvement effort underway to try to create a better climate and management environment in which education can function in the future.

Mr. **Kildee.** We will certainly work with you and encourage you to do that and give you whatever support this committee can to help you do that.

In your testimony on page 7, you mentioned briefings were held for specific tribal groups upon request. Did all of the groups know of this option and is that option still available?

Mr. **Lavis.** The option is available, given the number of people and resources. It has not been widely disseminated largely because of the small number of people we are dealing with. Roughly, Mr. Chairman, what it amounts to is myself and two staff people in my office and Mr. Barlow, who really have an overview of the whole project.

We are really stretched between this really wide ranging effort at this point. As you indicated in your opening statement, as we begin to get to that point where we are beginning to draft proposed rules and regulations and put those in the Federal Register, I think at that time we are going to begin to make available some of those task force leaders to help by beginning to hold briefings around the country.

Mr. **Kildee.** Unfortunately, even though I tried to find every legal means or even extra legal means, to extend the time lines for the finalization of the proposed rules and regulations, it has become clear to me after extensive research that is not going to be able to take place. Because that cannot take place, it makes that comment period even more important. The comment period is going to really be a question of about 30 days of real comments.

What steps has the Bureau decided to take to disseminate the information in that time? What steps have been made to alert the tribal and community groups to the imminence of that situation so that time could be used effectively to get input?

Mr. **Lavis.** Mr. Chairman, we are mailing this week a letter to all tribal chairmen and other interested groups alerting them to the fact the rules and regulations are coming. We are making this a high priority. We are asking them to make it a high priority.

Second, I met with the assistant area directors for education last week in Denver. They have agreed to alert their level, all their tribal constituency of the impending release of these rules and regulations.

Third, we are going to mail those rules and regulations as quickly as they are approved by the Department which is in advance of the publication in the Federal Register.

Mr. **Gerard**. Mr. Chairman, I think it is clear that not every tribal group or Indian organization subscribes to the Federal Register. That is a creature that we deal with here in Washington, D.C. In the past, we have tried to accommodate that shortcoming by mailing directly to the tribes so they would have access to published rules and regulations proposed.

Mr. **Kildee**. Under the new bill, Public Law 95-561, the agency is going to be playing a major role. I would emphasize as much input and reception of their ideas, and I mean from the agencies. I think they will be playing the important role in this.

Mr. **Lavis**. Yes, sir. I made that point to the assistant area directors for education. I was insisting upon Bureau input at that level.

Mr. **Kildee**. One of the things we found in our field trip was that many groups and individuals we talked to thought that on May 1 the proposed rules and regulations were really going to be a fait accompli and that the comments would be relatively insignificant. Not only is that substantively a problem but it is also a morale problem.

What steps would you take to ensure their comments will have some effect upon the final rules and regulations?

Mr. **Lavis**. Mr. Chairman, that issue was raised to me in late February in Denver by the tribal representatives and members of the steering committee. It posed some very serious problems. I had not felt up to that point that the relationship of the tribal communities and the Federal Register was as great as they expressed to me. What they would have liked for us to have done was to provide draft rules and regulations prior to publication in the Federal Register. Their feeling was once they were in the Federal Register they are locked in and they had no influence over the result.

I am sure that speaks of some history and some traditional relationships which is unfortunate.

I tried to find any way I could to accommodate that. We still face the onward time-consuming process of getting the job done. To try to get at that issue, what we decided to do is we have to meet our 6 months deadline which we will do, which involves maybe five or six separate provisions. We do have a 30-day comment period. It does not give us much time.

We are adding to the process. This does not normally occur. We are going to ask the task forces themselves to review the comments so we do have Indian input at the back end of the comment period so it is not just a closed process from the proposed rules and regulations onward. We do not intend, as I indicated in my statement, to treat them as pro forma. We are going to actively involve them in this process to the very end.

The second thing we decided to do is to try to get to the issue of the whole concept of the rules and regulations as the Indian community perceives them. Since we have a little longer time on a couple of the other task forces, particularly standards and policies, we want to publish standards in draft form sometime in late August and go to a public hearing format.

They do not have to publish until February 1, 1980. I think we will have a long lead-time there for the Indian community to impact on that particular set of rules and regulations.

I think you recognize that is the most critical set of provisions we are dealing with. They are going to drive everything else.

Mr. **Kildee.** I think that will be very helpful.

After the rules are finalized, what plans do you have to both disseminate and explain the rules?

Mr. **Lavis.** At this point in the game, we have not decided on any strategies. We have said we were going to address it. I have indicated that to the steering committee and the task forces. Given our resources, in time, we want to do that. There are some of those provisions, Mr. Chairman, that clearly must be communicated in a major way.

We have already begun to take steps on one particular provision and that is the allotment formula which is the critical one in many cases because that is the lifeblood of any school operation.

We have set up briefings. We set up one for the assistant area directors of education and for the Bureau level staff. We have established one for the NTCA executive board representing tribal governments. We set one up for the coalition of school boards who are going to be pooling together on the contract schools so they have some input in briefings on these issues.

We are obviously meeting with the congressional committees who must pass judgment on that formula. Beyond that, we have not settled on any particular strategy, Mr. Chairman. We will do so

Mr. **Gerard.** Mr. Chairman, I might add as a general proposition we would look to the field organization to undertake some of the orientation. We would have access to the solicitor's regional and field offices for legal discussion and legal interpretation, and so on. I do not believe we could handle all of that from the Washington, D.C. level. I think we will look to the field structure for a good part of that kind of orientation.

Mr. **Barlow.** Mr. Chairman, I have begun the process to compile what I would call an educational directory with the names, addresses and information about school administrators, school board members, et cetera. Also, this will be a very important part of dissemination. These people will be contacted and information will be sent to them.

Mr. **Kildee.** That is very important inasmuch as we will be elevating their role. Their role certainly should be elevated in the dissemination of information.

After the regulations are finalized, they certainly at that point can be modified; can they not?

Mr. **Gerard.** Certainly.

Mr. **Kildee.** I would hope in that process you would bear in mind the importance of input from those who will be affected by it when modifications take place on that, especially after we get experience with Public Law 95-561. We should look at what modifications should take place and really go out with an Outreach program to get input for those future modifications.

I will come back to a few questions. At this time, I know Mr. Hinson probably has some questions.

Mr. Hinson. Thank you, Mr. Chairman.

First of all I would like to say I regret I was unable to make it on the field trip last week. Most of my district is under water right now in Mississippi and I have been dealing with those problems. I am perhaps not as familiar with the problems as the chairman and others.

I would like to address myself to the business of your newsletter. I think we have somewhere around 280 identified federally recognized tribal groups in the 48 States and something like 200 separate villages or Indian communities in Alaska.

I would submit that 1,000 newsletters is probably inadequate to get the word out and to also disseminate to the personnel that are involved in actually carrying out the programs.

I would hope that some effort would be made to print more newsletters and make sure they are distributed properly.

I have a question for Mr. Lavis, if I may. You indicated that the 12 task forces established to carry out the directives of title XI were formed through recommendations from various tribes and national Indian organizations.

Would you please elaborate on how the final members were chosen from your list of 800 nominees and who made the selection and on what basis? What final criteria were used?

Mr. Lavis. Congressman, as I indicated in my statement, we received approximately 800 nominations. Most of those were from the tribal governments in furtherance and expansion of our government to government relationship. It is obvious we could not use all 800. We asked for nominations from each of the 12 task forces. We had a lot of nominations in some task forces and just a few in other task forces.

Our basic criteria was to again emphasize field orientation but more importantly we wanted tribal representatives, representatives of tribal governments nominated by tribal governments.

The difficulty in selecting from that group is simply not all of us in the central office had knowledge of each one of the capacities and individual abilities of these individuals plus we wanted to make sure not only was there tribal council involvement in field orientation but we wanted to make sure we had a mix of managers, students, parents, teachers, and all the rest.

We arbitrarily established a three nominee kind of cutoff. We took those individuals who had received three or more votes and in some cases we found individuals. Mr. Barlow was nominated by more than one or two groups. He became a nominee in essence. We had other plans for him but he was nominated.

We used that as an arbitrary cutoff to at least begin to delineate the number of people we were dealing with. From that point on it was a process of review within our office. We discussed it and defined national organizations or at least those Indian organizations who had involvement in education. We asked for their input as well. We got some additional input.

Basically, it was a kind of process involving some judgments as well as some impact and input from the field and from the national organizations.

Mr. HINSON. There was some kind of final vote or selection process?

Mr. LAVIS. Yes, sir.

Mr. HINSON. In your testimony you indicated BIA has complied with section 1103 of Public Law 95-561. I was not a member of this committee last year. I understand there is some difference of opinion as to whether the Bureau has actually complied with the requirements of that section.

What schools received the additional 50 percent of the fiscal 1978 Johnson-O'Malley basic education funds and on what basis were those awards made? Who determined whether or not there was a need and what factors were used in determining the need?

Mr. LAVIS. Mr. Chairman, the question of Johnson-O'Malley basic support has been a long standing issue of this committee as well as the Interior Committees on both sides of the Congress and there are going to be a long series of reforms and revisions.

The Congress with the executive branch established a 3-year phaseout of the operational basic support program beginning in fiscal year 1975 and concluding in fiscal year 1978. When this administration assumed office, we were confronted with a 1978-79 budget with a history on operational basic support.

We concluded one of the issues we had to address rather early on was how do we go about the business of making these funds available to these schools? Congress had expressed a concern over the years about establishing need.

I think the record speaks to that issue, at least on both the Interior and Appropriations reports.

We determined at that juncture which was a year ago October, that we would release 50 percent of the basic operational support appropriated funds to the 27 schools in 5 states. We also indicated at that time to those schools that we were going to proceed with an audit to determine the additional need for those 27 schools in 5 States.

If need was proven, we would release the remaining 50 percent in those cases. We proceeded with an audit and investigation report through our auditors program. Conclusions were brought to us. We found that at most in four cases, need was established and the funds were released. In some other cases we found some of those schools which had received 50 percent which already equalled or exceeded proven need and the second 50 percent would be simply windfall and in some cases the first 50 percent was a windfall.

We were left with the position of indicating with the appropriations concern on one side of the aisle and others, we were left with the view that we should not release the remaining 50 percent.

I do not have the exact figures. I do have some figures here. They were just handed to me. I have not read them over. I would like to submit that for the record in terms of the actual numbers.

Mr. HINSON. Thank you. I would like to know that. I would also like to know what schools received the additional moneys.

Mr. LAVIS. Yes, sir.

JOHNSON- O'MALLEY OPERATIONAL SUPPORT

The fiscal year 1979 President's budget contained no funds for Johnson-O'Malley basic support. The program was audited by the Department of the Interior to determine the actual needs of those schools that have been receiving basic support funds from the Bureau of Indian Affairs. The school districts are located in Nebraska, South Dakota, Arizona, Minnesota and Iowa. Initial audits have indicated, with a few exceptions, that basic support funds in fiscal year 1979 are not needed.

The Department of the Interior and the Bureau of Indian Affairs identified four public school districts attended by eligible Indian students which would need Johnson-O'Malley basic support assistance in fiscal year 1979. These four schools were provided basic support assistance from Fiscal Year 1978 Johnson-O'Malley basic support savings. If public school districts prove need, the Bureau of Indian Affairs will be able to provide assistance in fiscal year 1979 limited to the availability of funds. To date, only four schools have been identified needing basic support in Fiscal Year 1979. The following table provides detail of the distribution to the 27 public school districts involved in fiscal year 1978.

JOHNSON-O'MALLEY OPERATIONAL SUPPORT
FY 1978 - 1979
CURRENT STATUS

	Fiscal Year 1978 Funding	
Aberdeen Area Office		
	1st 50% (Released)	2nd 50%
Nebraska		
Macy	$122,000	$122,000
Santee	82,500	82,500
Winnebago	45,500	45,500
	$250,000	
South Dakota		
Sisseton	$123,000	$123,000
Todd County	125,000	125,000
Smee	25,000	25,000
McIntosh	7,000	7,000
West River	8,500	8,500
White River	8,500	8,500
Waubay	50,000	50,000 1/
	$347,000	
Minneapolis Area Office		
Minnesota		
Pine Point	$ 71,500	$ 71,500 1/
Naytahwaush	17,000	17,000
White Earth	18,000	18,000
Nett Lake	21,000	21,000
Grand Portage	12,500	12,500
Red Lake	100,000	100,000
Iowa		
Tama	$ 42,000	$ 42,000 1/
	$282,000	

	1st 50% (Released)	2nd 50%
Navajo Area Office		
Arizona		
Chinle	$170,000	$170,000
Ganado	65,000	65,000
Kayenta	62,500	62,500
Tuba City	112,500	112,500
Window Rock	105,500	105,500
	$515,500	
Phoenix Area Office		
Arizona		
Indian Oasis	$112,500	$112,500 1/
Sacaton	37,500	37,500
Alchesay	28,000	28,000
Keams Canyon	15,000	136,122 1/
	$193,000	
Subtotals	$1,587,500	$412,122

Total available in FY 1978	$3,200,100
Total allotted (1st & 2nd 50%) in FY 1978	$1,999,622
FY 1978 Balance as of 9/30/78	$1,200,478

1/ Indicates 2nd 50% released.

Funds Allocated in FY 1979:

Indian Oasis	$ 225,000
Macy	160,000
Santee	43,000
Tama	84,000
Total	$ 512,000

FY 1978 Balance as of 6/5/79	$ 688,478

Mr. HINSON. I would like to know who made the decision regarding need. You mentioned audits. This is something that is of some interest to me. Were your auditors given prior instructions on determining the need or were they just trying to determine the availability or accountability of the recordkeeping systems in the schools?

Mr. LAVIS. It is my understanding we were proceeding on the basis of determining need. Unfortunately, Congressman, our definition of "need" and the State Department of Education's definition of "need" sometimes does not square.

I think the difficulty was when we got through this process we began to hear some concern about the validity of those audits. I have never been presented with any clear cut evidence that they were faulty. I had nothing to make a judgment to reverse myself.

Mr. GERARD. Congressman, if I might interject a point here. I would like to underscore the fact that the auditors are not part of the Bureau of Indian Affairs. That is the Department's Office of Audit and Investigation now under the Inspector General within the Department.

We looked upon it as an independent type of study and review of need.

Mr. HINSON. Was the Bureau satisfied with the findings of these audits?

Mr. GERARD. I did not hear any great hue and cry or objections. I think they were reasonably satisfied.

While not an educator, I dealt with the Johnson-O'Malley question on a few occasions myself as a former committee staffer on the Senate side. I think we ought to have for the record the fact that Indian students if residing on trust property, do attract Federal funds under the impact aid program. Mr. Barlow is much better versed on that than I am.

The Johnson-O'Malley is not the sole source of operational support for Indian children attending public school districts today. There are other Federal resources available.

I do not think by cutting off some of the schools we completely wreck their financial programs altogether.

Mr. HINSON. One thing that just concerned me was whether or not you all felt the audits as carried forward was the kind of degree of fresh skill.

Mr. GERARD. I would have to speak in defense of the Department's audit program. They have highly qualified individuals.

Mr. HINSON. There seems to be some indication these audits were at least questionable as to accuracy, particularly when talking about current dollar needs to meet expenses for educating Indian children in public schools.

Questions arise here and I do not know the answers to them.

Mr. GERARD. We would be happy to sit down with committee staff and review specific documents you may have or inquiries if that is desirable.

Mr. HINSON. Thank you, Mr. Chairman.

Mr. KILDEE. Before I turn the questioning over to counsel, I would like to ask a couple of brief questions.

Has any decision been made yet on the application of the All Indian Pueblo Council at Albuquerque to contract the Institute for

American Indian Art? That was a question that was being raised frequently while we were out there.

Mr. Gerard. A decision has been made at the Bureau level generally that the All Indian Pueblo's application to contract for the Institute of American Indian Art does not meet the requirements of Public Law 93-638, due primarily to the fact that you have multiple tribal students attending that institution. Under the rules and regs authorizing resolutions are required from the various tribes who would be represented in the school's membership. The matter will be appealed to my level.

Mr. Kildee. Is there any consideration being given to transfer the Institute to another location to free up those buildings?

Mr. Gerard. We are looking seriously at the question of how we continue to maintain the program currently being conducted at the Institute. No final decision has been made.

I think what we would want to show for the record today is my office as well as the Office of the Commissioner of the Bureau of Indian Affairs and Mr. Barlow are all committed to the maintenance of the artistic and cultural values of the Indian community. The question now is how do we carry that out in the most effective and efficient manner.

Mr. Kildee. The question is still open?

Mr. Gerard. It is still open, sir.

Mr. Kildee. While we were out there we heard rumors and rumors on rumors, good rumors and bad rumors. One of the rumors we heard for instance was the schools on the eastern Navajo agency would be considered off-reservation schools. Having sat through the hearings last year and knowing congressional intent and looking at the record on that, in my own mind it was clear that the congressional intent, evidenced by a good legislative history, is that those schools are considered and are indeed reservation schools.

Is that your understanding?

Mr. Barlow. Mr. Chairman, the Office has determined that these particular schools in the section you have just described will continue to be classified as reservation boarding schools. There is a long history here which I will not go into but it is rather interesting how the eastern portion of the Navajo Reservation came into existence.

We also have a lot of rumors flying about the classification of the Fort Wingate Boarding School. It is true, technically, that boarding school is off from the reservation but the enrollment has been limited to the Navajo people so we determined this will not be classified as an off-reservation boarding school.

Mr. Kildee. Thank you very much for your very straight answer on that. It clarifies the record. That was the impression I had from the hearings we had last year but there was a rumor floating around out there.

Mr. Hinson. May I be recognized for one additional question?

Mr. Kildee. Certainly.

Mr. Hinson. Mr. Lavis, do you hold the same opinion as Mr. Gerard about the value of these audits and how they were conducted?

Mr. **Lavis**. Yes, I think so. Nothing has been brought to me. I have heard rumors. Obviously the school districts would file a report saying they do not particularly accept the audit.

I will be very frank and honest with you. Some of the auditors through second and third hand have indicated some concern but nothing has ever been brought to me officially through the Inspector General's Office or anyone else to indicate to me they felt those were faulty or bad audits.

On that basis, on a good faith kind of representation, that is what I acted on.

Mr. **Hinson**. Can you tell me what use BIA has made of the 50 percent or the slightly less than 50-percent funds it has left?

Mr. **Lavis**. Excuse me. I did not hear the first part.

Mr. **Hinson**. Can you tell me what use has been made of the money that remains that was not obligated?

Mr. **Lavis**. Congressman, the intent for the use of those funds was to keep them available for public schools which may at some point in time in this school year indicate a need or even possibly the next school year.

Mr. **Hinson**. Funds have not been reprogramed or obligated into other programs?

Mr. **Lavis**. No, sir, we have not done that.

Mr. **Hinson**. Thank you.

Mr. **Kildee**. I will call upon the counsel for the majority, Mr. Alan Lovesee for questions.

Mr. **Lovesee**. Thank you, Mr. Chairman.

Mr. Assistant Secretary, I would like to ask some specific questions with respect to the management improvement system, please. It has been held off to this point to allow me to ask some questions based on the information which has been given beforehand and which I have had an opportunity to go over.

I am specifically interested in the use of computers to take over some of the responsibilities which have been handled in a manual basis in the agency and area offices, especially from the standpoint of review of vouchers and other things which you have already alluded to.

I wonder if you could more specifically go into particularly what you are looking at from the standpoint of computers, in other words, will there be a central computer, how will it be fed into, where will the terminals be if they are to be fed into from the field, who will have access to those terminals and how will they relate to the education?

That may be an awful lot to ask at once but I wanted to get it all in there so your answer could be integral.

Mr. **Gerard**. If you will keep in mind that I am not a computer specialist as well, Mr. Lovesee.

Basically we are following the mandates set down by the House Investigative Committee's report a couple of years ago and are implementing what is known as a distributed computer system. There will be a central capability. It will be moving off of the antiquated computer located in Albuquerque at the present time and the specialists tells me that computer is so ancient given the fast moving technology in this field that it is truly a candidate for the Smithsonian Institution.

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I will give you just an example of some of the shortcomings that we are working under in the information field. There will be minicomputers located at the 12 area offices and a computer at each of the local agency offices. In the development of the management information system, for all elements of the Bureau of Indian Affairs, education of course would be able to utilize this new system to store, retrieve, and communicate the information up and down and across the Bureau.

Access will be confined principally to Bureau managers at all levels. This does not rule out the potential as recommended by the Policy Review Commission that the tribes be allowed to hook into those systems.

Mr. LOVESEE. I would be the first one to admit that I am not a computer expert as well but based on the excellent material which was sent, I would like to get a couple of thoughts straight.

The computer terminals at the areas, would they be the so-called smart computers, in other words, you can run programs on them at the area level as well so if you had a particular thing that you wanted to study, educational needs within an area for bilingual education, could that computer terminal actually plug into that extent?

Mr. GERARD. I would like to give a qualified answer to that and defer to the specialist we are working with. It is my hope, yes, that we could accommodate a program to that extent.

Mr. LOVESEE. The one that would be operated at the agency, has there been any plans so far to tie that into the new financial responsibility section with respect to education so that it could be used by either school boards or school personnel or perhaps the agency school board or agency school superintendent, to tie in there to check on how much money they have in the bank, for instance, for their balances?

Mr. GERARD. Let me confer with my associates.

Mr. BARLOW. Mr. Lovesee, maybe I had better describe the direction we are taking and how we are going to integrate this with the overall Bureau management information system.

I submitted an education MIS plan which was approved and is now going forward. The basic objective is to provide the means by which we can improve the accuracy and integrity of the three educational systems, presently in operation.

These are the student enrollment system, the higher education grant system, and the exceptional child system.

Mr. Gerard's program is moving. I have been in communications with the people who are working on that. When their program is in place, this plan that we have adopted for implementation of an MIS program for education will be worked right in with that.

We are underway right now. By the school year of 1979-80 we will be in place for education. We will have terminals at each of the 12 areas. Ours is not going to be a very sophisticated kind of operation or system initially. It will be when we tie into the system that is being proposed for the entire Bureau.

Mr. LOVESEE. Mr. Assistant Secretary, where will that central computer be located?

Mr. GERARD. That question is still open but I think it is safe to say it will obviously be in the field somewhere.

Mr. LOVESEE. Have any kind of contracts been let for either hardware or software with respect to that particular system?

Mr. GERARD. There are ongoing negotiations. I would have to provide that answer for the record, if I may.

[The information follows:]

Currently a Teleprocessing Services Program (TSP) contractor is being used to provide all of the Bureau-wide central data processing computer support. This contract was awarded competitively to Martin-Marietta Systems and will expire in March 1981. No other hardware or software contracts for implementation of the education MIS plan have been awarded.

Mr. LOVESEE. On Project Integrity, which is an effort Bureauwide to improve the tracking and the monitoring, can you explain that a little more, please?

Mr. GERARD. Yes. Let me relate to a couple of experiences that we encountered in the first year of our administration.

We faced two shortfalls in the budget that we inherited, namely fiscal year 1978, contract support moneys which support the indirect costs associated with self-determination contracts entered into between the Bureau and the tribes. We ran into a serious problem in fiscal year 1978.

The other category was in the area of general assistance. In many States where the local counties are either unwilling or unable to provide general assistance to Indian people, the Bureau administers federally funded programs.

We encountered a shortfall in this area and as a manager operating at the Washington, D.C. level, I could not extract from that system information quickly enough on all accounts in the Bureau to make a determination whether or not we were in the position where we might possibly reprogram money in order to meet that shortfall in those two categories.

These are but two illustrative examples of the problem we had in budget execution, tracking, and monitoring funds. The purpose of the contract with Price-Waterhouse and Co. is to assist us in designing and strengthening our internal fiscal control systems so we can better execute the budget, track it so we know the amount of money we have at a given time, quarterly, monthly or whatever and I think more importantly their report is recommending and I am anxious to adopt it, that the program managers be required to file financial program reports at the beginning of each fiscal year, in other words to strengthen the accountability.

Their initial report to me proposes that some new reporting systems be adopted and some old systems be discontinued because of their obsolescence.

Mr. LOVESEE. I have an interest in that particularly from the standpoint of education. I think you are right. The computer that we attempted to get information from, the BIA computer that the staff attempted to get information from was totally inaccurate. The information may have existed someplace in the field but it was incomprehensible and unaccessible to those in the central office.

You touched very closely on two things and that is program accountability and the capability of tracking funds in the programs. I am wondering how that will be tied into education?

It seems to me that with the new per capita formula system for funding of education, especially as is currently proposed on a weighted basis, it would be extremely important to be able to do what you are proposing to do with the entire Bureau with education, in other words, track dollars to particular programs and divide them up between administrative expense, program expense, so you can see what is happening.

How will this tie in with education if not immediately at least eventually so that can be done and is there anything currently in the works at the moment to do that?

Mr. **Gerard**. Let me say first of all that upon my first reading of Public Law 95-561, given the public administration challenges and the 6-month deadlines, I thought about boarding the first jetplane and heading west and staying out there.

What it really poses, I submit, given the focus on Indian education, and that by the way is the largest single operating program within the Bureau of Indian Affairs, over $250 million, I believe, is geared to the education effort, but we have to determine how we link now the new education system that has been authorized by the Public Law with the other elements of the Bureau of Indian Affairs.

We have decided that because of Price-Waterhouse's high-quality work, they would be a likely organization to help us integrate the new system. We do not have the precise answers for you today but upon the completion of Price-Waterhouse's work as well as with Bureau and departmental staff, we will be able to report how that will be integrated at a later date.

I think we should keep in mind that as we improve the overall systems within the Bureau, automatic data processing, the fiscal control systems, streamline our processes at the area level, obviously all of those will complement the education effort as well.

Mr. **Kildee**. I would like to keep the record open for Mr. Lovesee to submit some questions in writing and they will be included in the transcript of the hearing.

I believe Mr. Hinson has a question.

Mr. **Hinson**. Thank you, Mr. Chairman.

Mr. Gerard, the education amendments of 1978 established an authorization for the first time for basic educational support for Indian schools, particularly where the sum of Federal, State, and local support might be inadequate and where perhaps those schools would be forced into unusually difficult situations.

What provisions have been made to carry this out for this fiscal year and upon what basis is need established?

Mr. **Gerard**. I am going to have to turn to my specialist.

Mr. **Barlow**. For the current fiscal year, the school year 1979, Congressman, the system that was in place identified four schools which are for this current school year still in need and were qualified for JOM funds for basic support.

Two of those schools were in Nebraska, one was in Iowa and the other one was in Arizona. The total amount which has been committed to those schools for basic support is $512,000.

The criteria upon which the judgments were made looked at such items as the amount of fiscal financial support available from State sources and other Federal sources as made possible under Publc Law 874.

One of the things that generally happens is out of the total number of schools that originally had been approved for basic support funds, this current school year we ended up funding four. I am sure the other schools looked and asked questions like why were we not included and I think we did our best to explain to them why they were not included. Maybe our answers were not adequate.

Mr. **Hinson**. Thank you.

I have never been able to determine from what I have been able to read upon what basis need is actually established. I think that is one of the principal questions here.

Is BIA going to have a new formula in place for the distribution of these moneys for next year, the supplemental moneys?

Mr. **Lavis**. Are you referring to operational basic support or supplemental?

Mr. **Hinson**. Supplemental.

Mr. **Lavis**. Yes, sir. We are required under the act to have a new distribution formula by July 1.

Mr. **Hinson**. Thank you. That is all I have, Mr. Chairman.

Mr. **Kildee**. Thank you, Mr. Hinson.

I understand the minority counsel has no questions at this time.

Ms. **Vance**. No questions, Mr. Chairman.

Mr. **Kildee**. I have just one question before you leave and then we will call on the Task Force No. 2, the Johnson-O'Malley Task Force.

What is the situation on the proposed Hopi High School? I have spent some time in the Hopi Reservation and I really feel the need is there, both the educational need, and cultural need and also the feasibility is there for the Hopi High School. You find a road system, the size of the reservation combined with that road system makes that proposed high school accessible to all parts of the reservation.

Could you give us some indication as to the status of that proposed high school?

Mr. **Gerard**. Mr. Chairman, before asking Mr. Barlow or Mr. Lavis to answer that question, I would like to point out for the committee's information that not quite a year ago we appeared before the House Appropriations Committee. At their encouraging, we developed a new system for ranking the school construction projects on the Indian reservations and Indian communities. We committed with that new system which is similar to 815 in HEW/OE, it would involve the number of unhoused students. That system is in place. It is being used for the first time in the formulation of the 1980 budget. There are several schools that were inventoried and determined to be at the top of that list.

Whatever ranking the Hopi school now holds, I would like to emphasize it is a result of this new system and I would ask Mr. Barlow or Mr. Lavis if they can give you the specific answer to your question.

Mr. **Barlow**. The Bureau does have a school construction priority system and the policy established is that Indian children will be educated in facilities as close to home as possible and also the existing 1953 Bureau policy directing that Indian students attend public schools where space is available will be changed and has been changed.

The Bureau now supports tribal choice in the selection of schools for their children.

The third criteria is every consideration will be given to the possibility of renovation of existing facilities. The percentage of unhouse students will be the basis for ranking priorities.

In the case of Hopi Indian School, they are on the construction priority list. They were No. 19 and they are now in the 24th position according to the new priority list.

The question that we are generally asked is how soon will we come up for funding? This year we have $10 million in construction funds and $10 million does not build a lot of facilities at this particular time. Looking down the road, the Hopi Indian School construction might be 5 years in the future and possibly longer.

Mr. KILDEE. You talk about the unhoused area [illegible] served there is really an area comprising of the thre[illegible] it not?

Mr. GERARD. I presume we would be speaki[illegible] of the students just within the Hopi area.

Mr. KILDEE. Under the present situation witl[illegible] high school, they are sent as far as California.

Mr. GERARD. Off-reservation boarding schools.

Mr. KILDEE. That is correct.

Mr. BARLOW. I would like to correct something, Mr. Congressman. Hopi was 9th and they are now 14th. I said 19th and 24th.

Mr. KILDEE. Counsel?

Mr. LOVESEE. Mr. Assistant Secretary, I think the thing is that you are discussing the Hopi agency when you are discussing the reservation, the Hopi agency out of Keams Canyon.

Mr. BARLOW. That is correct.

Mr. LOVESEE. Over the Phoenix area, it involves Nevada, California, Arizona and some other sections and that is what you discuss when you discuss unhoused students. The question is, if they may be housed anyplace within the three-State area, they are not considered as unhoused for the purposes of application evaluation, so that is the reason they do not qualify under the current system and why they have gone down in the ranking.

I believe I am correct, am I not, Mr. Barlow?

The problem arises that the nearest BIA facility to those particular students is Phoenix, Ariz. which is a 7-hour drive from the reservation as the Congressman knows from his past experience this past week.

That is why they are considered as unhoused. They are unhoused within the three-State area, not within the Hopi agency.

Mr. KILDEE. At this time I would like to call upon Ms. Vance for a question.

Ms. VANCE. There was one question Mr. Hinson asked about the Johnson-O'Malley basic program regarding the basis the Bureau has established for determining need for the current fiscal year and also for fiscal year 1980 with respect to those schools which could qualify for basic assistance.

The question may have been unclear. You asked if Mr. Hinson was talking about supplemental or basic support. Your response was limited to the supplemental program. He was also interested in basic support.

Mr. LAVIS. I believe the definition of "need"—I do not have my regulations of Johnson-O'Malley here. If you look at Indian Oasis, for example, Keams Canyon and the two schools in Iowa and Nebraska, my understanding of the need in those cases which was determined by the audit, indicated considerable shortfall in terms of resources to meet the educational needs of those children.

That was really the heart of need and maybe that has been the defect in this whole effort, how you define "need." I understand you perceive "need" differently than perhaps we do.

Up to this point, Keams Canyon for example or Indian Oasis which I am more familiar with, has had a situation develop in which the tribes purchased the utility in Indian Oasis and thereby eliminated from the public school district there, a taxable asset. As a result, that reduced the amount of money available to educate those children while the population or enrollment remains roughly the same as if that increased. On the basis of that, P.L. 874 and all the rest, you make a judgment that they were in fact in need of additional funds to operate that school.

Ms. VANCE. Maybe another way of asking the question is with the new authorization for Johnson-O'Malley basic education support, something that has never existed before, we have a new authorization.

Do you plan to propose regulations for establishing need under the new JOM basic authorization?

Mr. LAVIS. I guess my response to that is let's look at it two ways. Let's be honest and open about fiscal year 1980. There are no funds requested by the Bureau of Indian Affairs for operational basic support because we had no authorization. We were operating under a phase out before this act was enacted. There was no effort made inhouse to address the issue of need or definition with regard to it.

Upon the enactment of 561, you reauthorized the Johnson-O'Malley basic support. Up to this point, the Bureau and the Assistant Secretary's Office has made no judgment yet about fiscal year 1981 which we would then address the issue if we wanted to continue basic operational support program.

The task force on Johnson-O'Malley has as part of its work plan addressed the question of operational basic support.

At this point in the game it has had its hands full getting the question settled about the supplemental funds. We have a whole series of problems with that one that we have to address.

I think our honest answer at this point in time is we have made no judgment and the Bureau has made no determination whether they want to proceed and if so on what basis.

Mr. GERARD. Mr. Chairman, I guess the direction that we are moving in with Johnson-O'Malley and this is based on a lot of legislative history and intent of Congress and I think a strong plea from the Indian community itself in the past is to move the Johnson-O'Malley funds to the extent that we can out of the operational mode and permit those moneys to be controlled and managed by the parental committees within the community itself.

Given that kind of direction and the availability of other resources, I think as the Assistant Secretary and in my posture here, it would be we are willing to look at individual schools but I think it should be clear that as a matter of policy, we would prefer to see those moneys utilized within the communities and not have Johnson-O'Malley viewed as another source of operational funds.

I realize that is not universally shared by everyone interested in Indian education.

Ms. VANCE. Maybe an observation, if I could. It seems the Congress is one body which has not shared the same resistance to using JOM funds for basic support because they did establish a separate authorization for Johnson-O'Malley basic support. In one sense it seems understandable that the Bureau did not request extra Johnson-O'Malley funds for basic support in fiscal year 1980 because there was no authorization in the law

I wonder if we are talking about the chicken or the egg. If you do not request funds for 1981 because you did not have proposed regulations and you are not doing proposed regulations because you did not have funds, it seems we could begin to perpetuate a cycle where we are not dealing with the real problem in basic support.

Mr. LAVIS. I do not think we really have the regulation possibilities at this point in the game. I am just indicating the task force may not want to comment on that but they have had that in their work plan. Their problem is holding public hearings on the supplemental funds formula and making objectives about how that is going to proceed and all the rest.

Ms. VANCE. Thank you.

Mr. KILDEE. Thank you very much.

As chairman of the Oversight Committee and working on the implementation of 95-561 and 95-471, I look forward to working with you to make sure those acts really serve the people whom they were designed to serve. There may be times when we do not always agree but I am sure we will always be open and candid with one another.

Thank you very much for your testimony.

Mr. GERARD. Mr. Chairman, may I have a final word?

Mr. KILDEE. Certainly.

Mr. GERARD. I would like to conclude by stating in implementing this new statute, we are dealing in a climate in Indian Affairs and like anything that we have experienced in the past, we are currently implementing a national Indian water policy that has a number of disputed areas with the Indian community.

I am sure even though you may not be directly involved with Indian treaty fishing rights which has now become a national issue, my office is deeply involved in that with the attorneys in the Department where we are trying to resolve the Eastern land claims as well as a number of other areas where there are competing interests together with the Indians over scarce natural resources.

We have dedicated ourselves to the proper implementation of this act. We have not quite learned to walk on water yet.

I think we have put into motion a process that gave the Indian community more than just tokenism toward the implementation of this statute. We would welcome any other future oversight hearings on specifics or any general implementation of this statute.

Thank you.

Mr. KILDEE. Thank you very much.

At this point the Chair would like to call upon the task force No. 2, the task force on the Johnson-O'Malley. Maxine Edmo and Terry Walters are present for that task force.

PRESENTATIONS BY MEMBERS OF THE TASK FORCES

STATEMENT OF MAXINE EDMO, CHAIRMAN, TRIBAL EDUCATION COMMITTEE, SHOSHONE/BANNOCK TRIBES, FORT HALL, IDAHO

Ms. EDMO. Mr. Chairman, I would like to acknowledge Richard Tanner. He is also a member of our task force and is present.

Mr. KILDEE. Certainly. I am sorry.

Ms. EDMO. I guess all we can really do is answer any questions you may have concerning the field hearings we have had or any questions like that. We did not come prepared with a written statement.

Mr. KILDEE. That is fine. Could you briefly describe the activities of your task force, how you proceeded to arrive at your conclusions and gather your information for that purpose?

Ms. EDMO. My name is Maxine Edmo. I am from the Shoshone/Bannock Tribes in Fort Hall, Idaho. I am the chairman of our Tribal Education Committee. I have been involved in Johnson-O'Malley for about 8 years on different committees.

I am also a member of a school board, the Intermountain School Board. I serve in several other capacities in education.

I will have each one of the members speak on different concerns.

Just recently on April 13, we concluded the last of seven field hearings. We had our first field hearing on Johnson-O'Malley on March 28 and 29 in Anchorage, Alaska. We had three members of our task force present at those hearings, Bill Rifenbery, Bill Peratrovich, and Benny Atencio.

On March 28 and 29 we had another hearing at Minneapolis, Minn. Richard Tanner and Terry Walters were at those hearings.

On April 6 and 7 we had a hearing in Albuquerque, N. Mex. Bessie Gonzales and Benny Atencio were in attendance at those hearings.

On April 6 and 7 we also had a hearing at Fort Hall, Idaho. That is the tribal office. I believe that is the only one which was held on an Indian reservation. That was held in conjunction with the Affiliated Tribes and Northwest Indians meeting. I chaired that meeting along with Bill Rifenbery from the State of Washington.

On April 9 and 10, we had a hearing at Sulphur, Okla. Ed Moore and Jon Wade were present from our task force.

We had a field hearing on April 9 and 10 at the Catamaran Hotel in San Diego, Calif. Terry Leonard and Richard Tanner were in attendance at those field hearings.

The April 12 and 13 hearing was at Nashville, Tenn. Terry Walters chaired that meeting along with Bessie Gonzales.

Those were our field hearings. Testimony and comments were presented by interested persons at those field hearings. Many different topics were discussed concerning Johnson-O'Malley, basic support input on the formulas, alternatives or whatever the Indian people had concerns about.

I believe one of the main concerns they had was on parent training. A lot of their parent committees were not informed and have not had the training. I would like to stress that point.

The other thing is I felt personally that the law to me was not written the way I felt it should have been for the best input from tribes. We hurried into our formulas without having the hearings first, which is what I felt should have been done, and then come up with our proposed formulas in the Federal Register. It was the reverse. I feel we were not adequately prepared to come up with a real good formula or formulas to be published in the Federal Register. That is my personal feeling.

Another concern has been the one tribe one vote issue. It was written into the law that way and that has been a big concern by tribal people throughout the country.

The Navajo tribe namely had a concern that they had just one vote. I do not know what their total population is but it is several thousand. I believe it is 24,000 as compared to a little Alaskan village with very few that have the same number of votes.

Those were some of the main concerns. Another concern the reduction in funds, $3.5 million this past year and we have written a letter to the Bureau of Indian Affairs, to the Commissioner of Indian Affairs, requesting an explanation. I did receive a letter but they stated they did not have an explanation for that at this time but maybe shortly. We have not received that as of this time.

Those were some of the concerns in the Indian country.

That is all I have to say at this time and I will turn the time over to Terry or Richard.

STATEMENT OF TERRY WALTERS, BUREAU OF INDIAN AFFAIRS, WINNEBAGO AGENCY, WINNEBAGO, NEBR.

Mr. **Walters**. My name is Terry Walters. I am with the Bureau of Indian Affairs at the Winnebago Agency, Winnebago, Nebr. I work with three tribes in Nebraska.

Some other concerns which came up in the field hearings that I was privileged to be involved in were, No. 1, are the formulas that the task force published equitable? With the short time frame that we had, we had a lot of discussions within our task forces as to whether they are equitable or not.

We did not go out to defend them. We used history mainly to publish those types of formulas and were asking for tribal comments. The comment period is going until May 7. We have several comments in writing to us as a task force and to the Bureau. We have not gotten together since our field hearings to go over those comments yet but we will on May 7 or the week of May 7.

One of the questions that was raised in reference to Johnson-O'Malley was the regulations of 1975 are in conflict with the Johnson-O'Malley law in itself, the 1934 law and its amendments of 1936. We have been asking for an explanation to that and we have not received that as of yet.

The regulations state that Indian children in public schools should be educated at a minimum level within the State whereas the law states they should be educated at the maximum. We would like to have an answer to that.

We on the task force feel everything we are doing hinges upon that kind of an answer, whether we give it to supplemental or basic support.

The other questions that were raised is the one tribe one vote and the definite need for training out in the Indian country and the basic support issue.

I happen to be from Nebraska. This is not official. The GAO at the request of your committee, came out and did an audit, a general accounting audit, after the Interior Department's Office of Audit and Investigation did theirs. I think you will find you have not received it yet and when you do, there are some school districts that GAO says definitely has a need.

I know the Omaho tribe has put that into their comments with the permission of the GAO auditors that there is a need for basic support.

We feel with the short time frame that we have had, we do not feel comfortable as a task force with what we have done because of the mandates imposed upon us with such a short time frame.

The hearings that I conducted, people said, tell us about Johnson-O'Malley, we are not prepared to give testimony yet. It really pointed out a need for training.

With that, I would like to turn it over to Mr. Tanner.

Mr. KILDEE. Thank you.

STATEMENT OF RICHARD TANNER, COORDINATOR, JOHNSON-O'MALLEY PROGRAM, MINNESOTA CHIPPEWA TRIBE

Mr. TANNER. My name is Richard Tanner. I work with the Minnesota Chippewa Tribe and I am the coordinator for the Johnson-O'Malley program.

To go back to your original question of what we are doing, in our action plan, up to March 9 which was our deadline for the publications of the formulas in the Federal Register—March 28 through April 13 was our hearings. On May 7, we plan on meeting the whole week here in Washington to review all the comments and the testimony we elicited from the field hearings.

We have the Coalition of Indian Control School Boards who are working with us to help us analyze and review all the comments to see if we can find any pattern in there in terms of the effects on local schools, costs, to see if we can pinpoint any kind of data which will help us in determining whether or not our formula is equitable or what the school costs impact is from different types of formulas.

Starting on May 14, we plan on disseminating the formulas and the ballots out to the tribes. On June 4, that is our deadline for the receipt of votes cast by the tribes. June 8 is when all the votes are tabulated and counted. July 1 is our publication of the final formula and revisions to Public Law 93-638 regulations in the Federal Register.

As the other gentlemen asked the question before, whether or not we planned to work on the basic support issues, we would like to continue to stay in office and I do not know if that is a correct word, but to keep our committee active past July 1 when the work on the formula is complete. We would like to sit down and develop some regulations on basic support as well as our reviewing and possibly revising the present regulations on 638 under 25 CFR Part 273.

We would hope to publish those and have hearings on those in the same kind of fashion we do on our distribution formula.

Mr. **Kildee**. Thank you very much, Mr. Tanner. I think at this point I will turn the questioning over to the minority counsel, Jenny Vance.

Ms. **Vance**. Just a few questions. The supplemental formula options which were published in the Federal Register could any one of you describe who determined those or who drew those up, where they came from? Do you have any computer runs to show how they would affect the different constituencies in terms of need?

Ms. **Edmo**. Like I said, according to the law, we did not have much time. Some of these are previously what was used in the Bureau of Indian Affairs. The makeup of the task force, we just did not have the time as a committee to discuss the whole thing and get input from the tribes.

These were some of the things which were previously used in the BIA. As a task force group, that was a decision that was made at one of our meetings to go with those.

Ms. **Vance**. Every one of them were from some former proposal?

Ms. **Edmo**. Yes.

Ms. **Vance**. No new ones had been developed by the task force?

Ms. **Edmo**. I think two of them and that was mainly E and F and C.

Mr. **Walters**. May I respond to that?

Ms. **Vance**. Surely.

Mr. **Walters**. The time element we were given was so short and there was no information available. We had contracted with the coalition to try and get this type of information so we could do a computer run. The coalition ran into problems with the Federal Reports Act where States would not give them that information because if you go out and ask for information over nine States, you have to have GAO clearance.

We published the proposed six formulas and hopefully by the time all the comments are in the coalition will have the data where we can do a computer run, to go out with our final formulas for asking the tribes to vote. This is why we feel very inadequate because we are behind the ball per se. We should have had leadtime to do this so we could propose things.

The law mandated we had to do it by March 1. We did not have the time to compile this information as a task force to get a computer run. We are doing things by hindsight and we feel very uneasy about it.

Ms. **Vance**. You do have the clearance needed to get the information to do the computer runs now?

Mr. **Walters**. Not as of this time. I think Montana and Florida, because of the Federal Reports Act or some act like that, they say you have to have GAO clearance before they will give you that type of information. Those States have been very hesitant and have not given us the information on school district costs, State costs and so forth.

Ms. VANCE. You indicated there had been some problem with the way the Congress established the votes should be determined—one tribe equaling one vote. I am not sure there is anything really new to say on that. It is fairly clear in the statute.

I have a question on Johnson-O'Malley basic. Have any of you discussed the possibility of forward funding the JOM basic programs so that it would help schools know exactly how much money they had to deal with so they could realistically plan their programs?

Have you made any recommendations to the Bureau in that area?

Mr. TANNER. That was one of the issues which we heard at the Minneapolis hearings. Some of the tribes who were testifying requested, not on the basis of support funds but forward funding.

Ms. VANCE. Is that an unaminous vote for forward funding?

Mr. TANNER. It seems that way, even in the hearings I attended in San Diego, they also requested the same thing.

Mr. WALTERS. The tribes in the East and also the Midwest are making that recommendation also.

Ms. VANCE. Have you made a formal recommendation to the Bureau or in discussions with Bureau personnel?

Mr. WALTERS. Our comment period lasts until May 7. On May 7 we will be gathering and compiling information. The coalition is doing that for us now. We just completed field hearings. We do not have all the comments compiled yet. We will do that on May 7.

Ms. VANCE. The final question I have would be one about whether or not you plan to establish need factors in terms of Johnson-O'Malley basic support. That seems to be the area that has been a real problem for as long as the program has been in operation.

Do you have need criteria to recommend?

Mr. WALTERS. Yes, we have the 1934 law that says they shall be educated at the maximum level of the state and in the 1975 regulations, they say minimum. That is why I said we need to have that answer. That is going to be a determining factor.

Ms. VANCE. Will the task force be drafting proposed regulations?

Mr. WALTERS. Our intent is to, yes. We have that verbal request to do so.

Ms. VANCE. Thank you.

Mr. KILDEE. Thank you, Ms. Vance.

Majority counsel, Mr. Lovesee.

Mr. LOVESEE. I have two questions. No. 1, has the bill, Senate S. 210, influenced your particular deliberations at all?

Ms. EDMO. Like I stated, that was a concern, the one tribe one vote issue and the majority of task force members are not in agreement with S. 210, even though it has been introduced.

Mr. LOVESEE. Let me ask one more question since Mr. Barlow is in the room. Several of the task forces have expressed an interest in whether they will be allowed to function either in their current capacity or some other capacity past a particular date.

In this particular instance, you are discussing regulations dealing with basic support which are also part of Public Law 95-561, section 1122. In some other task forces you have a situation where you are discussing guidelines to implement regulations once written, perhaps the formulation or formation of materials to go out to school boards for training purposes et cetera.

Have any plans been made to keep these task forces or some other body in creation past particular time lines to get this carried out?

Mr. **Barlow**. No. The original plan was to establish and create task forces to carry out the implementation of a particular law within the constraints of the deadlines. That is as far as our planning has gone.

Mr. **Lovesee**. I am aware of the fact that several task forces have requested such a continuation of the Deputy Assistant Secretary who unfortunately is not here. He stated that would be up to your office. It would be at your discretion as to whether they would be continued.

It is questionable as to whether implementation actually is finished until the law becomes operational in the true sense of the term where school boards assume control on down the road.

Since the Deputy Assistant Secretary has stated it will be up to your discretion as to whether you continue any such bodies in any capacity, have you given it any consideration yourself?

Mr. **Barlow**. I am looking at several options. I recognize and support the concept of the involvement of the Indian people. I am looking at different possibilities to continue the involvement and getting advice and direction. One of them is the task force and representation from the school boards is another.

Right now I am kind of leaning toward the school boards if I get them functioning. I think they are going to be the kinds of people that I will certainly rely on.

Mr. **Lovesee**. Would you be willing to put that down from the standpoint of what you are considering in the form of a written submission for the record so the subcommittee and the members and staff may take a look at it, please, sir?

Mr. **Barlow**. I would be happy to do so.

[The information follows:]

OPTIONS TO ASSURE CONTINUING PARTICIPATION BY INDIAN PEOPLE IN THE IMPLEMENTATION OF P. L. 95-561

At the present time the Director, Office of Indian Education Programs, is considering various steps and options to assure the continuing participation by Indian people in the implementation of P. L. 95-561. Some of these steps and options are:

I. TASK FORCE CONTINUATION

When the Steering Committee and Task Forces were formed by the Deputy Assistant Secretary, their primary purpose was to meet the requirements of the law up to the point of implementation. There were specific deliverables spelled out in P. L. 95-561 with designated time frames. Upon completion of their current assignments, some of the groups will disband and others will continue. Among those on-going will be the task forces for Standards, School Boards and Management Information Systems. Through this vehicle, continued input from Bureau constituents will be accomplished.

II. CONSULTANCY PROCESS

The provision for consultation by the Bureau with Indian people is a mandate by law, the expressed policy of the present administration, and a major issue found in GAO and Congressional reports. P. L. 93-638 provides the most obvious evidence that Congress recognizes the obligation of the United States to assure maximum Indian participation in the direction of educational services to Indian communities so as to render such services more responsive to the needs and desires of those communities.

Towards this end, the Bureau is undergoing contract negotiations with the National Tribal Chairmen's Association to carry out a consulting process as described by the parties concerned. This may be the first of two such contracts to be entered into by the Bureau with appropriate national Indian organizations. It is expected that P. L. 95-561 will be included in the NTCA contract.

III. OTHER AVENUES OF INPUT

P. L. 95-561 provides for a strong leadership role by the local school board in conducting the Bureau's educational program. Obviously, tribally sanctioned school boards will be maximally utilized for gathering input on education issues. Additionally, Indian education organizations will be consulted as appropriate and committees will be used when it is constructive to do so.

Another method of establishing communication with people served by the Bureau is through the periodic publication of a BIA education directory. Such a directory will help provide a sense of unity and purpose and will include names and locations of school board members and leaders, school staff, and principals, as well as Agency, Area, and Central Office education personnel. A sense of identity with such an important endeavor as the operation of a new national Indian School System will enhance communication throughout the Bureau.

Mr. **Lovesee**. Thank you. Thank you, Mr. Chairman.

Mr. **Kildee**. We want to thank the task force on Johnson-O'Malley for their hard work. I am sure it is very often frustrating work. Having been in the legislative business for 15 years, I recognize no legislation or rules or regulations are chipped in stone and we as a committee, whatever your role may be as a task force, would certainly encourage you to keep in contact with this oversight committee with your views.

We certainly intend to be a very active oversight committee. I would encourage you to keep in contact with us.

Ms. **Edmo**. Mr. Chairman, I would like to make one more comment, please.

Mr. **Kildee**. Certainly.

Ms. **Edmo**. Earlier it was asked about information to tribes. In our contract with the Coalition of Indian Controlled Schools, they did 1,168 mailings just from the coalition to tribal schools and other parent committees involved in Johnson-O'Malley. That is plus the regular BIA mail out and then NTCA has been doing a mail out also on the information, total information on 561.

The other concern I wanted to mention was I do not know whether Congress appropriated any money to implement this law especially the different task forces that have been involved in implementation, that is a concern that I feel should be addressed.

To me, I do not know if the BIA is taking this money from within house or what but every time a law is enacted, it seems to me like there should be funding to go along with that and that is a concern to Indian people. They do not like to have funds taken off of the top to implement a law like this. That really has been a need.

We have wanted to do a lot more but due to funding problems, we were not able to do a lot of the things we really wanted to do. I just wanted to mention that fact.

Mr. **Kildee**. It is my understanding that the initial money was taken from in-house and the Appropriations Committee replaced that. The question is if it was adequately replaced and was the funding inhouse and the replacement adequate.

This is the authorizing committee, we represent the authorizing committee and not the Appropriations Committee. We will try to interface with that committee to let them know of the needs in general of the BIA.

I want to thank you very much for your appearance here this morning. It has been very helpful to the committee.

Ms. **Edmo**. Thank you for your attention.

Mr. **Kildee**. Majority counsel.

Mr. **Lovesee**. Mr. Chairman, I have a question which is specific and very quick before the next witness. Have you had any problem administratively carrying out your task force duties? That is touchy but I would like a blunt answer from the standpoint of such things as the recompensation for travel for task force members, the processing of vouchers, et cetera and also the acquisition of support for your particular duties, both from the standpoint of contracts and in-house from the standpoint of clerical or other assistance.

Mr. **Tanner**. Yes, we have a lot of problems.

Mr. **Lovesee**. Can you describe some of those?

Mr. **Tanner**. One of the problems we have had was just getting started. We wanted a contract with the Coalition to do some of the work and in compiling some of that data Just getting that contract authorized took about 2 months or about a month. The Coalition in helping us out were about a month late getting started. They went ahead and did some of the things anyway.

The other problem is there is really not enough time for all the task force members to do these things. For example, the task force is turning into a full-time job. In my work and I know in Terry's work, we have to go without any supper.

In regard to your other question, we were talking about this last night, where I borrow money out of my savings account and put it in my checking account so I can pay my travel. I know some other task force members have not been paid since the January Salt Lake City meeting.

Mr. **Lovesee**. Would you say this has negatively impacted your ability to perform?

Mr. **Tanner**. I am getting to the point where I do not want to go anyplace any more because it is costing money and there is nothing coming back in.

Mr. **Lovesee**. Would you be willing to ask the task force members at your next meeting to perhaps document some of that from the standpoint of where they stand for the moment and submit that for the record?

Mr. **Tanner**. Sure.

Mr. **Kildee**. I would appreciate it if you would supply that for the record. I have discovered with my own background the difference between knowledge and realization. I come from a district where the Indian population is far less, and I did not know a lot about the Western Indian situation but going out to the Pueblo, Hopi, and the Navajo areas, I made that knowledge more real which I call realization.

I am a lot more aware of the needs of the Indians because of my trip last week.

Thank you very much for your appearance here this morning.

I believe we now have task force No. 4 with Suzy Erlich. Ms. Erlich.

STATEMENT OF SUZY EHRLICH, BUREAU OF INDIAN AFFAIRS

Ms. **Erlich**. Good afternoon, Mr. Chairman, members of the staff. My name is Suzy Erlich. I am an Eskimo, rather displaced, currently living in Virginia, working for the Institute for the Development of Indian Law here in D.C.

I am at this present time representing task force No. 4 which deals with the line authority of the Bureau of Indian Affairs.

I believe although I heard you this morning talk about your limitations on the timeframe that you cannot make any changes, I believe at this time I must go on record on behalf of my particular task force and object severely to the timeframe given to task force No. 4.

There was such limited time that we cannot afford the privilege of going out to the field to deal with the various tribes, get quality input from them. Given the magnitude of this particular law and the diversities within the Bureau of Indian Affairs itself and its dealings with the various Indian nations who are also very diverse, there has not been enough time to devote to putting together a system that will deal with all of the various differences with the clear thought in mind of creating a viable system for our Indian youngsters, not only for now but for the future, not only for this short future but for 100 years from now or 500 years from now.

Another problem given the time frame has been we have not had the opportunity to really look into the philosophy of the Bureau of Indian Affairs or the new creation of the Department of Indian Education within the Bureau and perhaps propose a philosophy.

I see in many areas policies written, policies upon policies. In my mind, those are situations that take care of the immediate future.

I appreciated Mr. Barlow's statements this morning regarding Indian control and his commitment to transfer to the Indian people and Alaskan Natives the management and control of Indian education to Indian children.

We have submitted proposed policies and procedures. I do not know if you have been given copies of them. The proposed policies and procedures do not adequately spell out the ultimate goal that Mr. Barlow has stated.

How and when are we going to give to the tribes and the various Indian nations, decontrol of Indian education?

Another problem that I have—did you want to ask a question?

Mr. **Kildee**. We would appreciate it if you could submit that for the record.

Ms. **Erlich**. I will submit this, sir. You must recognize it is my copy and it has been written on. If you would like to get a clean copy, perhaps the Bureau of Indian Affairs could accommodate you.

Mr. **Kildee**. We can probably get a clean copy from the BIA.

Ms. **Erlich**. Fine. Another problem, because of the lack of timeframe involved, we have not had adequate time to address various situations like what is the Bureau's role with responsibilities to education for the future and in like form, what are the Indian nations' role under 638 contracting in the future of Indian education for the reservations?

In the language of the act itself as well as our particular proposed policies and procedures, I am unclear in reading them where the Indian controlled schools fall. The language gives me the indication we are addressing the Bureau system. We are not adequately addressing the contract system and how that deviates from the regular Bureau of Indian Affairs procedures.

Under 638, tribes are afforded different mechanisms to pursue contracting for all kinds of services as well as education.

In the particular policies we are proposing that the areas have some involvement in that. I believe Mr. Lovesee can attest to the fact I have advocated the minimizing of the areas' responsibilities as far as Indian education delivery for our Indian youngsters. I have done that primarily because I would like to see that the money goes to the lowest level possible as much as possible to the Indian youngsters.

When bureaucratic levels are maintained as they are now, I am not hopeful about the money really going down where it belongs.

Our primary problem with the particular task force again was the lack of time and failure to really adequately address those things I have presented.

Mr. **Kildee**. Thank you very much, Ms. Erlich. I really share your frustration on the time constraints. My frustration brewed during my trip last week out there. I really was desperately trying to find some remedy for that but I have run into a brick wall trying to find a remedy since the time line is in the statute.

I will solicit your continued individual input to this oversight committee so we can really keep on top of the implementation of this law, recognizing all laws can be fine tuned. I really sincerely solicit your input. I will assign someone on my own staff to take some time aside just to help implement this bill so we are serving those whom it was ultimately designed to serve, which is the students.

We will continue to solicit your input to this oversight committee.

Ms. **Erlich**. Thank you. I must commend your committee and the Bureau of Indian Affairs in its effort. It is in my estimation a first of its kind. For all the problems we have had, again going back to the timeframe, it has been a very commendable job by all parties, including the task forces.

Mr. **Kildee**. Thank you. If you would stay at the table, perhaps we will have some questions later.

The new line authority under Public Law 95-561, that is from the central office here to the local boards of education with some technical assistance by the agency, leaves the area office out.

Do you think there will be any role for the area education people in the new system, that is to any technical assistance coordination with the tribe or area director for support services?

Ms. **Erlich**. My primary vision of what the area offices could very well provide when monitoring for purposes of reporting back to central office who in turn will report back to Members of the Congress, this is for various reasons that I am sure you are well aware of.

The second responsibility that I could see the areas performing would be to provide technical assistance to the various school boards and the various tribes and the various schools themselves.

They may not necessarily have to actually provide the training, the technical assistance training. They may contract that out to external groups.

Those are the two major roles I see. In this morning's discussion regarding the computers, where there will be computers at each area, I could see that as a very good tool for monitoring and reporting back.

Mr. **Kildee**. While we were out in the Southwest, we talked to various people of the BIA and discussed the IERC, the Indian Education Resources Center. Do you feel there is any place for a "central office west" to replace the IERC?

Ms. **Erlich**. Mr. Chairman, may I defer that to Mr. Barlow if he is still here? I am not that familiar with it.

Mr. **Kildee**. Mr. Barlow, would you like to comment on that?

Mr. **Barlow**. Yes. Prior to my coming onboard, Mr. Chairman, DM-130, was in the works. On March 7th, this DM-130, was approved by the Secretary of the Interior. DM-130 abolishes the IERC, that particular policymaking function will be transferred into the central office.

Mr. **KILDEE**. That was made up prior to the passage of the act. Has there been any consideration to that decision subsequent to the passage of the act?

Mr. **BARLOW**. Not to my knowledge.

Mr. **KILDEE**. Thank you very much.

Under education contracting, where will education contracting be handled, by education or another division? Under 95-561, it is at BIA's discretion where that would be handled.

Ms. **ERLICH**. My understanding as far as the task force's discussion is that the contracting would be handled out of the Director of Indian Education's Office, Mr. Barlow's office.

Mr. **KILDEE**. Mr. Barlow, is that also your understanding?

Mr. **BARLOW**. Mr. Chairman, most of the feedback I have been getting is that the Indian people are a little disillusioned with the process of contracting and they would like to see it come under a new process in the Office of Indian Education programs.

Mr. **KILDEE**. Majority counsel.

Mr. **LOVESEE**. Mr. Chairman, will it come under a new process under the Office?

Mr. **BARLOW**. I do not know how you would describe the new process, Mr. Lovesee. It is certainly one that would probably be a little more sympathetic to the needs of education.

Mr. **LOVESEE**. Will the contracting responsibility be transferred from trust responsibility or another division into education division?

Mr. **BARLOW**. That particular decision has not been made but it is one of the alternatives that is being considered.

Mr. **LOVESEE**. The new process that is being discussed may in fact not be a new process at all?

Mr. **BARLOW**. I do not know how familiar you are with the practice that is in place now. I would say if it comes under the Office of Indian Education Programs, it will be a new process.

Mr. **LOVESEE**. I believe the subcommittee. It has gone on record as supporting such a transfer a number of times in the past.

Mr. **BARLOW**. The Indian people have voiced great frustration to me and I have experienced it myself on this whole contracting process as it is now in place.

Mr. **KILDEE**. We may submit some further questions in writing for the record. We appreciate your testimony here this morning, Ms. Erlich.

Ms. **ERLICH**. Thank you.

Mr. **KILDEE**. The next task force is task force No. 5 on the allotment formula. The chairperson is Mr. David Mack.

Mr. Mack, do you have an opening statement for us?

STATEMENT OF DAVID MACK, NATIONAL INSTITUTE OF EDUCATION

Mr. **MACK**. Yes, I do.

I am David Mack. I am from the National Institute of Education. I have been working with the Bureau of Indian Affairs for a couple of years now.

By resolution of task force No. 5, the allotment formula task force, I am authorized to speak on their behalf before this committee.

I also would like to begin by expressing the regret of Mr. Donald Antone, lieutenant governor of the Gila River Indian Community who is the co-chairman of that task force. He was not able to be present here today because of his workload in his job there.

I would like to give a little overview of the history of formula funding in the Bureau so we have that background on record and also the working of the task force, the way it was organized and the way it worked.

By congressional mandate specifically Senate appropriations language in 1976, the BIA was told that it should institute a form of direct funding to schools and the implication there was that would be an equitable form of funding and internal attempts were made to meet that mandate. Those attempts were not successful. There was a negotiation with the National Institute of Education to do some of the background study and some of the development work that would make possible an equitable funding formula under an interagency transfer of funds from the Bureau of Indian Affairs to the National Institute of Education.

A competition was held to select a contractor to do that work, to do the background study and analysis of funding patterns within the Bureau and contract schools which could then lead to isolation of factors that could be considered in a funding formula.

That work was done and has been widely circulated as the Odden report which showed there were great unexplained inequities in funding across Bureau and contract schools, across and within areas regardless of school type.

Also developed under that contract was a simulation capacity, a computerized simulation capacity to simulate possible allocation formulas and the effects those would have on the schools.

At about the same time 95-561 was being made law, a new interagency transfer occurred between the Bureau of Indian Affairs and the National Institute of Education. This called for additional work and provided some outside research and technical capability to assist the Bureau in developing formula funding. Specifically that phase 2 of the contract which by the way was won by the National Conference of State Legislatures and the Education Commission of the States in submitting a joint proposal, called for development of the elements of the formula for a study of transportation costs, for a study of administrative support costs for a system transfer, that is the computerized capability of simulating the formula or generating allotments based on the formula and some implementation assistance.

The task force first came into being in January, just 4 months ago or a little less than 4 months ago. It had the task of producing a formula in that amount of time.

I might say States who have developed similar formulas have spent as much as 2 or 3 years in study and development.

The membership of that task force consists of 16 persons, 6 of them are Bureau employees, 10 of them non-Bureau employees; 10 members are Indian persons. The others are not. There are four persons on the task force who are involved in contract schools and as a matter of fact there is a fifth person who is with the coalition. The contract schools also had strong representation on that task force.

An effort was made to get a cross section of people and to supplement the task force, the task force supplemented its own membership once it was formed to fill in gaps that existed, for instance, we began without a member from Alaska. We began without a person who represented a BIA-based school. We felt those were very serious omissions from the membership. Those were filled.

The process that the task force used in this very short period of time to develop the formula was basically to rely heavily on the consultants who were provided through the contract with NCSL. The initial reliance on the consultants was very great but as that kind of learning occurred within the task force and the task force itself begin to feel very competent with the technical matters that it had before it, it soon gained the ability to make very judicious decisions about the recommendations which were made by the consultants and therefore the work that is now being reviewed internally in the Bureau does represent the work of the task force members and does represent the considered decisions of the task force members and not those of the consultants themselves.

All decisions were made by parlimentary procedure and there has been careful documentation of how those decisions were made and what those decisions were so that I believe the record of the task force is immaculate in that sense and the product they produced is a good one, although it is imperfect in the sense that given the limited time, we were not able to meet all the mandates required by the law.

For instance, the law did specifically mention there was an isolation factor to be considered. The task force unfortunately did not have the time to adequately do the background research that it would take to develop a fair measure of an isolation element and that is included in the formula only in the sense that small schools receive a proportionately larger share of funds because it requires more money to operate small schools.

In addition, we provided only interim measures in some areas which will have to be filled out more completely in the future. One of those areas is operation and maintenance. A study is now underway which would make it possible to more fully incorporate operation and maintenance into a formula but at this time, it was not possible to do that to the satisfaction of the task force members.

In my view, there are three remaining tasks that need to be completed in terms of formula funding. One is simply a revision of the formula as it now stands. It will need fine tuning once we find out how it works in operation.

No. 2, to include those few missing elements which the task force wanted to incorporate but found because of the pressed time or because of the lack of immediate accessability data, they could not do within the time frame and finally, an effort needs to be made once the standards task force makes its report on those standards and they become finalized, to make sure the formula accurately reflects the standards and the costs imposed by those standards.

The regulations that have been developed are very thorough ones and we went beyond simply developing a formula and also developed procedures for the implementation of that formula and for the management of that formula because those are as necessary to maintain the integrity of the formula as the formula itself.

Finally, I would like to recognize and acknowledge the support and cooperation that both Mr. Lavis and Mr. Barlow have given our task force. We have never requested anything that we have not received with one exception and that is field hearings and we have had to accept that fact.

Thank you very much.

Mr. KILDEE. Thank you very much, Mr. Mack.

For 8 years in Michigan, I was chairman of the appropriations subcommittee that attempted to write a reasonable bill. I appreciate the role of this task force.

The formula has factored into it the question of isolation. You mentioned that.

Mr. MACK. It does not have factored into it isolation. We used size because that data was available. We are making a recommendation that isolation be incorporated but we do not have the data available to do that now.

Mr. KILDEE. Isolation as such——

Mr. MACK. That is a very difficult one to deal with.

Mr. KILDEE. You took size as maybe a possible indication of isolation and used that as a substitute?

Mr. MACK. Yes.

Mr. KILDEE. You feel that is a deficiency in the formula?

Mr. MACK. Size becomes very important because the Odden report showed that there was a difference in costs. The Bureau does have many small schools which cost more to operate.

Mr. KILDEE. Could you enlighten us somewhat on how you feel isolation could be determined in the formula?

Mr. MACK. The kinds of factors that we looked at when we were considering incorporating it was distance of the school from a paved road, for instance, from railhead or from a major city or something of that sort.

We find Alaska does have isolation as a factor in its State system for funding education. We did not have time to study that Alaska system and to decide whether it was one that looked equitable and whether it looked as though it was one that was appropriate for BIA schools.

Distance would be the factor of isolation, accessibility of transportation and services.

Mr. KILDEE. What about the factor of the increased expense for schools that have a more stable or mature faculty, a faculty that has been there for some time and therefore higher on the pay scale, is that factored in?

Mr. MACK. For a time it was. It is now factored out. It was a decision of the task force not to incorporate a staff cost adjustment. We had a rather elaborate staff cost adjustment factored in. That is not now incorporated.

Mr. **Kildee**. When was that decision made to factor that out?

Mr. **Mack**. It was made here in Washington, D.C., 3 weeks ago by the task force.

Mr. **Kildee**. I presume that was a split decision.

Mr. **Mack**. The task force seldom made anything but unanimous decisions.

Mr. **Kildee**. Why?

Mr. **Mack**. Because they had a chairman who permitted them to discuss matters until they virtually reached consensus before a vote was called for; that was our general operating procedure.

We really did not feel that we ought to develop a formula by a split decision.

Mr. **Kildee**. Do you personally feel that question of faculty stability or longevity should be a factor in the formula?

Mr. **Mack**. There are a number of arguments on both sides. I would like to have seen some kind of incentive within the system for schools to have an opportunity to deploy their resources in a way that they had some choices about what kind of staff and what kind of staffing arrangements they had.

Schools which had no choice, in other words, had cost factors which were uncontrollable, those being those staffs that had been there and were very high on the scale, I personally would liked to have seen those compensated for until such time as those schools could have made those judgments on their own.

The task force set some criteria for its decisionmaking and one of the criterion was that costs which were out of the control of schools should somehow be factored in and should not work against those individual schools.

Mr. **Kildee**. One of the things we saw in our trip out West is there are some schools that have faculties that have a certain longevity, and that really to my mind is a factor over which there is no control.

It is going to be more expensive to run those schools because of that. I really do not see where there is any control over that factor at this point in time. There may be various reasons why the faculty is stable, and it is going to add to the costs for the education of the students.

Mr. **Mack**. We have data showing the average costs in schools, the average staff costs vary by as much as 25 percent. That is both for professional staff and for clerical classified staff.

Mr. **Kildee**. Did you factor in a factor for the every day ordinary maintenance of buildings?

Mr. **Mack**. There is a very thorough study which is underway with regard to that. The data necessary to do a good job of that is to be available in October. We have made a strong recommendation that be incorporated as a full factor in the formula.

What we did as an interim measure was to place in the regulations authority for transfer of $1 million from the operation and maintenance budget of the division or facilities of engineering to education to be distributed on the basis of a formula which would take into account square footage of floor space directly to the school boards for use in day-to-day maintenance and minor repair.

This would average about $5,000 per school site. It is only an interim measure. It is only a sign of good faith and an indication to those school boards that the task force would like to have done more but we really felt until that report was ready and until there are better factors of need, that we would not interrupt that work which was in progress and which by my review at least seemed to be quite competently done.

Mr. **Kildee**. Did you factor in any idea for technical assistance for school boards into the formula itself?

Mr. **Mack**. The proposed regulations called for distribution of a sum of money to each school board. That sum of money was $5,000 per school with an add on factor of 25 percent for off reservation boarding schools and an add on factor of 25 percent for Alaska.

The school boards are given that money to use as they see fit for their own training and technical assistance. They are of course able as I see it, to divert other funds from their allotment to training as well. That money is specified for training and must be used for that purpose.

Mr. **Kildee**. Are there provisions for carryover funds at the local level? What would happen to money if at the end of the year it was not all expended?

Mr. **Mack**. There is no provision for carryover funds at the end of the year. That is a legal matter over which we had no control.

The task force did pass a resolution which we are forwarding to the Bureau asking them to request authority to carryover funds for the period of 1 year under a series of conditions which we have spelled out in that resolution.

Mr. **Kildee**. Could you get a copy of that for our own record?

Mr. **Mack**. Yes; I will gladly supply that.

Mr. **Kildee**. Thank you very much.

The key to the whole formula will be the accuracy of the pupil counts. I know that from my experience in Michigan. That will generate the different weights as well as the evaluations which designate each child in each division or class, for example, special education.

How will these counts be obtained and whose responsibility will it be to see they are accurate and how will it be monitored?

Mr. **Mack**. Counts will be based on a count of average daily membership with a pair of counts being taken, one early October and one early November. I am now citing what is in proposed regulations. When I say it as though it is a fact, it is not a fact at the moment, it is a recommendation.

Those counts will be taken and certified by the local school administrator and forwarded through the agency office, I presume, to the director. Those will be the official counts.

There are provisions written into the regulations for sanctions against any school administrator or school board which deliberately falsifies counts.

We have also written into the regulations provision for audit capabilities by the Bureau to monitor. There will have to be strict audits on pupils counts as well as program audits to see those pupils that generate funds are also being served.

Mr. **Kildee**. It is very important to have good auditing on that. I know we have had some experience in Michigan which indicated that the accuracy of student counts was extremely important.

In Michigan we had some experience of bad counts which were more than mistakes and I think that is extremely important.

When programs are weighted, for example, special education, it is important that those dollars for those weighted programs be tracked and to see they are spent for those programs.

What have you done to see the dollars for those specially weighted programs are audited carefully and tracked?

Mr. **Mack**. As you may know from Michigan, there are not such things as program cost accounting capabilities which are available in many school systems and in many State systems of education. The Bureau cost accounting system is not a program cost accounting system. It will produce expenditure information by line item categories. This is not sufficient to track funds for program purposes.

The task force has brought in a consultant which has gone over the Bureau's system and who has made a brief written recommendation about that. We have had several conversations with the Bureau about the possibility of developing a computerized program that is capable of taking a line item cost accounting system and breaking it down so you can at least get a systemwide general idea about how funds are being expended and whether they are being expended on the programs and on the student categories, not on the individual students but on the student categories for which they were generated.

There is work remaining to be done in that area.

Mr. **Kildee**. Thank you very much. Mr. Lovesee?

Mr. **Lovesee**. I do have a couple of questions.

No. 1, you say there has been some work that is being done on that. Has a proposal been made to the Bureau as to what the cost to do that would be?

Mr. **Mack**. No.

Mr. **Lovesee**. To take the current system and making it capable of doing a program accounting job?

Mr. **Mack**. There has been no formal cost proposal made to the Bureau.

Mr. **Lovesee**. Are you aware of any informal proposal or cost analysis that has been done on that? If so, how much would it cost?

Mr. **Mack**. I would not be prepared to say at this moment how much that would cost. There were some informal discussions in which figures were mentioned. It would not be an expensive process.

Mr. **Lovesee**. Do you think it should be done?

Mr. **Mack**. It has to be done.

Mr. **Lovesee**. Otherwise the system will not work?

Mr. **Mack**. Otherwise the system cannot function. There will be no way to operate the system without having some across-the-system estimate at least as to whether funds are being spent for their purposes.

I do not favor a strict kind of audit that says the student who generates $2,500 because he has this condition, it must cost exactly $2,500 for that particular student. Within program categories, we must have some system for tracking.

Mr. **Lovesee**. Where will the actual bookkeeping be done? Will that be done at the school or some other site or will that depend on the school size and isolation factors?

Mr. **Mack**. It will be done either at the school site or at the agency, depending upon the school site, particularly in this first year. It is my belief once school boards realize the obligation they are being placed under in terms of being fiscally responsible, in terms of maintaining a responsible fiscal agent at the school site, without immediate training and background both on their part and on the part of the school supervisor, they are not going to want that legal responsibility.

We have provided in the regulations a provision that permits a local school board to designate some other person or some other agency to act in their behalf as fiscal agents, if they do not care to accept that responsibility immediately, That delegation must take place each year. It would probably be to the agency level where there will have to be a fiscal agent that will handle those affairs for some of the smaller schools.

Mr. **Lovesee**. Would that be an education personnel or some other division?

Mr. **Mack**. I cannot say that. I am not certain what the final determination will be as far as how those services will be organized at the agency level.

Mr. **Lovesee**. I am asking this next question because this was specifically requested by the people in the field and since you have the formula, you might know the answer. Otherwise, perhaps Mr. Barlow will be able to answer it.

Will school maintenance personnel, such as janitors, be under the control of school education personnel, such as principals, school boards, et cetera?

Mr. **Mack**. Not based on these regulations which will be printed. It is my understanding after several conversations with Dick Steele who is doing the study I mentioned earlier on operation and maintenance, that as a matter of fact will be their strong recommendation.

Mr. **Lovesee**. Mr. Barlow, is that correct?

Mr. **Barlow**. At the present time, based on the decision of the Assistant Secretary that there be a single administrative support service system for education, we are in the process of identifying all of those functions that are educational in nature and all those that are not.

The strong recommendation that has been made to me is that the maintenance program certainly would be under the jurisdiction of the school officials where it has to be in order to get things done. I think this is in agreement with a lot of field work that I did before I ever came to the Bureau.

Mr. **Lovesee**. I was just discussing with the chairman that from the history of the act, especially from the term "direct and substantial" which is found in section 1126(b), it does not seem that in the particular instance of those personnel who are located at the school, that is, a janitor, as opposed to those who have major maintenance or other roles which may be shared that there would be any other interpretation which would comport with that particular section.

I think any other interpretation would be in violation of the law. I think that may be something you may want to take into consideration.

Mr. **Lovesee**. Would you also submit any problems which have been involved with the administration of the particular things such as travel or any other compensation which you have had happen not only to yourself but also to the other members of the task force to this committee?

Mr. **Mack**. Yes; I will not submit any that have happened to myself because I am used to dealing with the Federal agents as I deal with another Federal agency and I know it is a problem that is Governmentwide. There have been problems with task force members and I can get that information.

Mr. **Lovesee**. Even though you are dealing with it, if you would submit any problems you did have, they would be enlightening if only for the purpose of comparing them with other agencies. Perhaps your comments in the margins as to how they stack up would be helpful as well.

Mr. **Kildee**. Ms. Vance?

Ms. **Vance**. No questions.

Mr. **Kildee**. Mr. Mack, we appreciate both your work on this task force and your testimony before this committee. I solicit your personal input into this committee on a continuing basis.

Thank you very much.

Our next and I think last task force is the Task Force on Education Personnel. The chairperson is Betty Walker. I believe also Patty Fulgham and Wesley Bonito are here.

Betty, I missed you in Albuquerque. I am sorry to hear the reason for it.

STATEMENT OF BETTY WALKER, TASK FORCE ON EDUCATION PERSONNEL

Ms. **Walker**. We are glad to have the opportunity to kind of stand up and stretch a bit. That is very helpful.

We thank you very much for giving us an opportunity to present the work of Task Force No. 7 dealing with education personnel.

The members of our task force feel that this particular segment of the legislation probably makes the most massive changes relative to the future education of children, of Indian children in Bureau of Indian Affairs operated schools, specifically because it makes changes relative to the hiring and all of the relevant personnel actions of education positions in Bureau of Indian Affairs schools.

There has been a lot of discussion relative to some of the other operations of the other task forces and some of the impact it has had. I think when the education personnel regulations become finalized or at last published as proposed regulations, this one particular area is going to generate an awful lot of discussion relative to existing educators within the BIA system as well as other people involved in the education of Indian children.

With 16 members on our task force, seven of those members are Bureau of Indian Affairs personnel, we have representatives from the local school level, the agency operating level as well as from the area level, six tribal members, five of whom work in various segments of Indian education in terms of contract operations as well as community colleges.

We have one student on our task force, a high school student who has given us insight into education of Indian children from the standpoint of students.

Because we interface with some of the other task forces, standards specifically, the allotment formula group and the most important being that one dealing with school boards. We have had members or representatives from those particular task forces who have been very active in terms of helping us to relate to the other task forces, some of the work they have done and some of the work we have done. They have helped us along in terms of drafting regulations.

We were also very actively involved with personnel from the Department of Defense schools who gave us tremendous insight into the operation of that particular education program.

As we were in the process of gathering appropriate information, identifying specific areas that the task force needed to address, we kept utmost in our minds the fact that what we were doing we would hope would have the most and the best impact in the long run dealing with the education of Indian children and also that of local control.

There are 14 sections to the draft regulations that our education personnel task force dealt with. Some of them are dealing with such items such as identification of education positions, qualifications for educators, basic compensation for educators and education positions, the appointment and discharge of educators, the entitlement and payment of educators to compensation, the conditions of employment for educators, length of the school year, status quo employees in education positions and interim procedures.

Our task force has been mentioned by some of the other task force members who are other representatives of other task forces today, who have identified the lack of time as being one of the most major problems relative to the workings of the task force. Our task force also faced that kind of problem, given the fact that we were developing regulations to institute a brandnew personnel system. On the surface, it does not seem of that magnitude until you get right into it and try to identify all of the areas that need to be addressed in the regulations and given the time frame, it was almost an insurmountable effort.

The dedication and the interest expressed by all of the task force members and the very unselfish time that they gave to our particular task helped us to meet at least the time frame for the task force and that was of presenting to the Bureau of Indian Affairs a set of draft regulations on time.

I understand our regulations are in the process of being edited and being rewritten in some of the phases. I have not seen a completed copy of the rewrite or of that editing yet. Hopefully they will be completed very shortly and can go to publication as quickly as possible.

There are a couple of other things that I would like to mention relative to the working of the task force. We also had some concern in terms of the lack of time of being able to consult or of being able to become involved with, the various facets of people who would be affected by this particular portion of the regulations. Each one of the task force members themselves were involved with consulting with the various segments that they were involved in either from the school level or from the tribal level.

We have a magnitude of information of the various kinds of contacts that we made with BIA school people, agency people, area people as well as with tribal people and also with other agencies such as the Department of Defense, as I mentioned earlier, with whom we did some consultations.

The task force as a whole identified some specific areas that do not fall necessarily within the purview of the regulations themselves as needing to be addressed which we have not yet been given an opportunity to address. They deal with specific things such as the guidelines and directives of recruitment, of training, of qualifications of educators, actual contracts or employment agreements, these kind of things that the task force is concerned with and hopefully will be given an opportunity to address those specifically.

STATEMENT OF WESLEY BONITO, TRIBAL EDUCATION, WHITE MOUNTAIN APACHE TRIBE, WHITE RIVER, ARIZ.; CHAIRPERSON, TASK FORCE ON EDUCATION PERSONNEL

Mr. BONITO. Mr. Chairman, I am with the White Mountain Apache Tribe Tribal Education Department.

Mr. KILDEE. Those are two bells which indicate there is a vote taking place over in the House. It will take me less than 10 minutes to go over and respond to that vote. I will turn the meeting over to Mr. Lovesee. Perhaps staff can get some questions on the record while I am gone. I will return as soon as I cast my vote.

Mr. LOVESEE. Mr. Bonito, if you will continue.

Mr. BONITO. I am with the White Mountain Apache Tribe of White River, Ariz., Tribal Education.

One of the concerns which has been brought up on the reservation is where are we going to draw the line on the post high program in the elementary and secondary education.

Since it was brought to our attention, we should look at another task force if possible to work into the post high programs. Thus far we have not taken any direction on that.

All of the regulations seem to look at the elementary and secondary education. We have three post high programs and they want to have a guideline to be considered for them.

The other part is with respect to what was said throughout the hearing that the time lines seem to be bothering all the Indian people.

Congressman Kildee mentioned the communications. That is so true. We do have that problem out on the reservation level.

Our task force has been working real hard on trying to reach the group. We are working with the Indian tribes. In Arizona, I have met the 18 tribes throughout the Arizona Tribal Council but that is really rough. We are doing what we can to reach as many as possible. What I receive, I report to Betty's office so she can broaden it and take it to others.

The secondary education section is more concerned right now—they would like to have another task force set up. That was just a request made to Rick Lavis office. I do not know where that stands but there is a need for it to be considered.

Mr. **Lovesee**. Ms. Fulgham?

Ms. **Fulgham**. I think Betty summed it up very well what the concerns of the task force are. I find it very exciting to be working on a new personnel system for the educators of the Bureau and to know we will have a better system for our Indian children.

Mr. **Lovesee**. Thank you. I will go ahead and ask some questions and then Ms. Vance of the minority staff may or may not wish to ask some questions.

There are a number of questions that are down that the Congressman specifically wanted to ask so I will not touch those.

Could you in very short terms, sum up how you see the new system functioning? Basically a walk through in 25 words or less?

Ms. **Walker**. Maybe I had better let somebody else answer that. I do not know that I can do anything in 25 words or less. I have been encouraged to try so I will.

Hopefully, with the new personnel system, we will be able to fill needed education positions at the local education level virtually on the spot, at least that is what we hope we have done in terms of the regulations.

One of the things I would like to speak to in terms of the regulations is we tried to keep them as simple as we possibly could. We did not want to hamper any of the decisions that could be made at the local education agency level, any decisions that the school board in conjunction with the LEA administrators, might want to make at that particular level.

We wanted to leave as much option to local decision as we possibly could. We hope qualified applicants for any education position can be hired almost immediately in conjunction with recommendations by the LEA administrator and in consultation with his or her school board.

One of the major problems as you found in terms of some of the research you have done was the lack of immediate or the possibility of immediate filling of any education position because of the civil service system and their requirements.

Hopefully this new system will not entail the cumbersome type operation that was required within the civil service structure, positions that become vacant after November 1 can be filled immediately without loss of service time to the Indian children and to the ongoing process of education.

Mr. **Lovesee**. Do you anticipate that the system will be run by education personnel or will it be run by personnel management personnel?

Ms. **Walker**. I hope it is run from the education standpoint.

Mr. **Lovesee**. Let me rephrase that question. Who will be handling the paperwork at the agency level? Will it be education personnel under the Director of the Office of Indian Education programs or will it be education personnel under the direction of the Commissioner?

Ms. **Walker**. To my knowledge, there has been no decision made relative to who actually will be handling the paperwork. I have some personal opinions about that. As far as I know there has been no official recommendation or decision made relative to that.

Mr. **Lovesee**. Would not that decision have been made prior to publication or even submission of those particular regulations? It seems to me it would be a little hard to run the system until you know who is going to do the paperwork.

Ms. **Walker**. To my knowledge, there has been no decision made relative to who will handle this particular phase.

Mr. **Lovesee**. Who would you prefer to have handle it personally?

Ms. **Walker**. I think it could be handled by program people at the agency level.

Mr. **Lovesee**. Ms. Fulgham, would you like to put the other view forward on that?

Ms. **Fulgham**. I do not have another view. I think the education people could perhaps handle this very well. It is an education program. I would like to see them handle it.

This is a personal opinion.

Mr. **Lovesee**. In keeping with the current mood of the Congress, let me ask this next question. Will the system cost more or less than the old system?

Ms. **Walker**. I am not sure that I could see it costing any more. I think it may take a reevaluation of who we have existing, people or staff existing at the LEA and agency levels and perhaps a consideration of restructuring of responsibilities. In isolated instances there may be the need for perhaps additional staff people, particularly in the smaller areas and smaller agencies.

Mr. **Lovesee**. Would everyone agree with that?

Mr. **Bonito**. I would say the cost is going to go up as time goes on. Right now I think the system is going to help our people in terms of saying, this is our school and we are going to run this school.

The demand is going to come from them to have more personnel onboard for all types of education.

I do not think the costs will go down.

Ms. **Fulgham**. I think the costs will go up moneywise as well as staffwise, to have an individual handle the personnel work as such, be it education or be it personnel individual, it will be a full-time job. The schools do not have someone to do that right now. They are shifting the responsibility and that may take care of that but I think in the majority of cases, they will call for one additional person to do that kind of thing.

Mr. **Lovesee**. Mr. Bonito, specifically I would like to get your answer to this one, since you represent a tribal education division and perhaps therefore, more community involvement from that standpoint.

What role have the school boards, or the task force representing the school boards interest, played in your particular deliberations in setting up these rules and regulations?

Mr. **Bonito**. I have been very close with the school boards and also the local school boards. They are excited but they do not know what the new ballpark is going to look like.

Mr. **Lovesee**. Has the task force crosswalked between your task force and the school boards task force on these particular regulations to see if they had any ideas or recommendations?

Mr. **Bonito**. We have not met with any of the school boards.

Mr. **Lovesee**. What about the task force that was set up to handle it? I believe that is task force No. 6.

Mr. **Bonito**. Yes; we had a meeting with them.

Mr. **Lovesee**. You mentioned the fact you had not met with any particular school boards. What training has been planned for, or would you recommend to, school boards in order that they carry out their new responsibilities under 95-561?

Mr. **Bonito**. At the tribal level, they are really interested and would like to see an inservice training of some kind, some kind of school board training to be part of the rules and regulations. Right now there is none in general existence. If they are going to be responsible and accountable for what goes on at that school, they would like to know exactly what role they are supposed to be playing.

Mr. **Lovesee**. Are you aware of any such education that has been planned by the Bureau?

Mr. **Bonito**. No.

Mr. **Lovesee**. Is anybody on the panel?

Ms. **Walker**. I do not know of any specific plans. The task force is very concerned that with the implementation of this particular segment of the legislation taking place in November, after school has begun, that training of school board people, the local education agency level as well as the agency, along with the LEA administrators, is just imperative.

Some of the members of our task force have done some looking into possibilities of training aides, training approaches and this kind of thing. We have identified some groups of Indian firms that would help us in terms of training and this kind of thing and who could help us on an immediate basis, in the immediate future.

Mr. **Lovesee**. Are these groups who could undertake this training if they were given a contract or contacted to do so?

Ms. **Walker**. Yes.

Mr. **Lovesee**. Do you feel the costs of such contracts would be prohibitive?

Ms. **Walker**. The contacts that we have made recently, there is one firm in Albuquerque, the Native American Materials Development Center, who has talked with us informally. The costs of providing just training materials for nationwide in terms of our particular regulations is very nominal.

They do excellent work.

Mr. **Lovesee**. Mr. Barlow, perhaps you can address yourself to the training of the school boards as it pertains to these particular regulations.

Mr. **Barlow**. I have begun to put together a program or package, if you will, which will address this, with a built in provision for trainers, for all school boards that will be coming into place under this particular piece of legislation.

The effectiveness of school boards is crucial in this whole process. I am not paying lip service when I say control is going to go down to the people because these school boards are going to have a great deal of authority when it comes to the financial package and educational plans.

We cannot just drop this on the people and then walk away and say, do it. They are going to have to have some training and technical assistance.

I will be meeting with a person this afternoon or tomorrow morning to begin putting together this package.

There are possibilities of contracting with outside groups and so on. We are recognizing that but I do not want to leave anything to chance. Any school board that calls me and says, we need some help, are going to get it. Hopefully it will be in such a manner that it will be understandable to them.

Mr. KILDEE. Thank you for indulging my going to vote. It is the final passage of a bill.

Will current Bureau employees be locked into their positions? In other words, if they wished to be transferred or to be promoted, will they come under the new system and will this help facilitate the changeover to Indian control?

Ms. WALKER. At our Denver task force meeting, we had a very lengthy and very heated debate relative to this very issue. The recommendation of the task force as spelled out in the regulations or in the draft regulations as proposed was that in order to carry out the intent of Congress and to meet the meaning of the legislation, employees currently in the system, if they wished to transfer or be moved to another location after November 1, would be governed by the regulations as proposed in the legislation.

We hope this does not lock in any person who is currently in the system of moving to another division or another bureau or another branch, into area offices or the central office or anthing of this nature and that they do not lose the status they currently are employed under.

It was the feeling of the task force and as I say, after very heated debate in terms of the approach that the task force would take and as Mr. Mack indicated awhile ago with this task force, we talked on this to the point where we had all reached at least unanimous agreement between the task force members there, even though some of us on the task force may not have agreed with that, we would have to agree with the rest of the task force relative to this.

In the proposed regulations, we have written into the regulations that after November 1, a current civil service employee who elects to be transferred or moved, for instance, from one school to another, then they will fall under the regulations or will be governed by the regulations as proposed under the legislation.

Mr. KILDEE. Thank you very much.

To establish for our record here, will school boards be able to appeal the decisions of the agency superintendent for education to the Director of the Office of Indian Education Programs in Washington?

Ms. WALKER. Yes; we have addressed that in the regulations.

Mr. KILDEE. Thank you. I have asked some of these questions just to establish our own record here, which is important to us.

Would you submit copies of your task force proposals and what final regulations come out of the Department?

Ms. WALKER. We would be happy to do so.

Mr. KILDEE. If you could submit to us any problems you may have had in getting reimbursed, we are concerned with that.

Ms. **Walker**. We will.

Mr. **Kildee**. Thank you. Does the majority counsel have any further questions?

Mr. **Lovesee**. No, sir.

Mr. **Kildee**. Before the committee stands adjourned, I would like to thank all of you. We are really trying to keep open the communications to this committee. The BIA will have the prime responsibility by statute to implement 95-561 and we do not want to demean that role but we want to work with them as a team and work with the people like yourselves who have been involved in the task forces.

You can communicate with us on whatever your status may be as a task force or communicate with this committee individually at any time.

We have our own committee staff. I will assign a staff person on my personal staff to work on good implementation of this act.

I want to thank all of you for your help today.

The committee stands adjourned.

[The subcommittee adjourned at 1:45 p.m.]

[Material submitted for inclusion in the record follows:]

Mr. Carl D. Perkins,
Chairman, Committee on Education and Labor, Subcommittee on Elementary, Secondary, and Vocational Education, Rayburn House Office Building, Washington, D.C.

Dear Sir: This is in response to your letter requesting response to questions generated by testimony given on April 24, 1979, relative to the Bureau of Indian Affairs' implementation of Public Law 95-561.

I am happy to respond to the four questions raised in your letter.

"1. Will education personnel be eligible for nine month details?"

When the education personnel system is implemented it should eliminate the necessity for "details" at the LEA and agency levels because the LEA's and Agencies should be able to fill needed vacancies by contract.

If the term "details" means "contract," there is nothing in the proposed regulations drafted by the Education Personnel Task Force to forbid nine-month contracts.

"2. Will you describe the Bureau's current situation of excepted appointment authority, and how it developed?"

Ms. Patty Fulgham, one of the Steering Committee members of Task Force #7, is also a supervisory personnel management specialist and will be responding to this question in detail. You should be hearing from her shortly.

"3. Are there tenure provisions in the task force proposal? How will this be handled?"

Tenure provisions were not included in the proposed regulations.

After hours of discussion and deliberation among task force members, it was agreed that each local school and school board should have the prerogative of establishing tenure policy at the local levels.

"4. Based on these proposed regulations, you will have a lot of work to do—salary, tenure, etc."

"When and how will you get this done?"

In early May a representative from personnel and education were selected to develop implementation work plans for presentation to Earl Barlow and Rick Lavis.

In a letter to P.L. 95-561 Task Leaders from Mr. Lavis (copy attached for information) it was noted that the Bureau was "fortunate" to have temporary assistance from Price-Waterhouse to design a basic "plan for a plan."

Patty Fulgham representing personnel and I representing Education drafted implementation task workplans for review and discussion with Mr. Lavis and Mr. Barlow which we did on May 21. A copy of those workplans are attached for your information.

Ms. Fulgham and I opted to bring together BIA education and personnel expertise to draft necessary documents to implement the education personnel system rather than contracting the work to an outside entity. Attached is a copy of the request submitted to Mr. Lavis and Mr. Barlow with some critical time frames included.

To date the only information we have had in response to the detailed workplans submitted was that no decision would be made until Price-Waterhouse submits its report to Mr. Lavis and Mr. Barlow.

"How much longer will it take to get out the draft handbooks on agreements, recruitment, etc."

Ms. Fulgham and I felt that the time frames we detailed in the implementation plans would be stringent but that concerned effort could be made and the time frames could be met. One of the tasks identified was the drafting of the handbooks to be completed by October 1.

To date we have not received approval to proceed with the proposed plans. Therefore, it would be difficult to project a completion date.

"Are you receiving the support you need?"

It is difficult to say at this time. It would depend on how "no decision" is classified.

Again, thank you for the opportunity of responding to your questions.

Sincerely yours,

Betty Walker.

OVERSIGHT HEARINGS ON THE IMPLEMENTATION OF INDIAN EDUCATION AMENDMENTS

MONDAY, MAY 14, 1979

House of Representatives,
Subcommittee on Elementary, Secondary,
and Vocational Education,
Committee on Education and Labor,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:15 a.m., in room 2175, Rayburn House Office Building, Hon. Dale E. Kildee presiding.

Members present: Representatives Kildee, Erdahl, and Hinson.

Staff present: Alan Lovesee, majority counsel; Jeff McFarland, research assistant; Scherri Tucker, assistant clerk; and Jennifer Vance, minority legislative associate.

Mr. Kildee. Good morning. This hearing is the second in a series of subcommittee hearings designed to monitor the Bureau of Indian Affairs implementation of title XI of Public Law 95-561. This morning's focus will be on the development of regulations relative to academic and living standards for BIA schools.

I just want to say at the outset that the development of these standards, mandated in sections 1121 and 1122 of the act, constitute one of the most important building blocks upon which a more successful education program will be built. Upon these standards hinges the successful implementation of the entire act.

With that in mind, allow me to move on and call the witnesses to our table this morning. We have Charles Geboe, Chairman of the Standards Task Force; Mr. Rick Lavis, of the BIA; and Mr. Earl Barlow, of the BIA Education Division.

We would have you start in whatever sequence you wish to choose.

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STATEMENT OF EARL BARLOW, DIRECTOR OF INDIAN EDUCATION PROGRAMS, BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY CHARLES GEBOE, CHAIRMAN, STANDARDS TASK FORCE; RICK LAVIS, DEPUTY ASSISTANT SECRETARY, INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR; SISTER KATERI COOPER, DIRECTOR, DIVISION OF EDUCATION OF THE PAPAGO TRIBE; JIM BAKER, SUPERINTENDENT, CHILOCCO AND COORDINATOR FOR TASK FORCE; J. D. FOSDICK, MEMBER OF TASK FORCE AND MEMBER OF OFFICE OF INDIAN EDUCATION PROGRAMS; REBECCA ADAMSON, MEMBER, THE COALITION OF INDIAN-CONTROLLED SCHOOL BOARDS; AND JOSEPH C. DUPRIS, MEMBER, COALITION OF INDIAN SCHOOL BOARDS; A PANEL

STATEMENT OF RICK LAVIS, DEPUTY ASSISTANT SECRETARY FOR INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

Mr. LAVIS. Mr. Chairman, let me introduce some other individuals who are involved in the standards task force work. We have Sister Kateri Cooper, Director of the Division of the Education of the Papago Tribe. We have Mr. Jim Baker, Superintendent of Chilocco who is on detail for 6 weeks as coordinator for the task force; Mr. J. D. Fosdick, a member of the task force and also an employee of the Bureau's Office of Indian Education Programs.

Also, as a member of the task force, Becky Adamson. She is a member of the Indian Coalition of Indian Controlled School Boards and has been on the task force representing contract schools. We have no prepared statement.

Mr. KILDEE. I welcome you here this morning, and I will introduce the people up here. We have from the minority Mr. Erdahl, from Minnesota, who has expressed deep interest in this program, and, of course, the counsel for this subcommittee, Mr. Jack Jennings, and the committee's counsel, Mr. Alan Lovesee.

We will begin with our questions.

What are the sources of information and study that the task force No. 3 has initiated and undertaken? Has the group formed subcommittees, and what are the task force goals?

Mr. LAVIS. Mr. Chairman, I will defer most of the questions to the chairman of the task force and to the other members he may wish to designate.

Mr. Geboe?

STATEMENT OF CHARLES GEBOE, CHAIRMAN, STANDARDS TASK FORCE

Mr. GEBOE. Basically, the task force has been spending the last four meetings in terms of trying to develop a strategy in how to approach the writing of standards. The first meeting was held in Salt Lake City, January 9 through 11, and that was the first meeting of all of the task forces, at which time it was basically an effort to try and organize what we were to accomplish.

On February 26 and 27, we had a meeting of the task force in Denver, Colo., at which time they tried to develop and clarify the efforts of the task force.

There was a meeting on March 27 and 29 in Denver, again of the task force, and at that time it was decided that there would be a work committee set up, at which time five people were selected. We met in Washington, D.C., then on April 9, 10, and 11, and worked out the plan to complete our assignment by an August 1 deadline. We just completed a meeting on the 26th and 27th of April at Oklahoma City, in which the implementation of the plan was developed. Basically what we did was develop a framework for standards, and this is kind of a basic outline of the various major areas of the standards.

We divided that into four areas and divided task force members into each of the four groups so each subgroup has a group leader and assistant group leader and three to five members. These groups then are responsible for developing the first draft of the standards for their respective areas, and we will be expecting the completion by June 27, at which time the task force will meet on June 28 and 29 to review the first draft of the standards.

I remind you that it is going to be a very rough draft, but we felt it was important to get something down on paper in order to begin to develop and wind up with a complete final draft.

The meetings after that will pretty much be small group meetings as well as task force meetings in which to refine the standards so that once we have completed the meeting on June 28 and 29, we will have a week, then, from July 9 through the 13, which will be a work group and hopefully will be able to bring in some consultants to define and come up with a second draft, and hopefully then by August 1 we will have draft No. 3 to Mr. Lavis' office for him to distribute prior to the field hearings.

After the field hearings, then we will have a group that will incorporate the material and information that is gathered from the hearings which will be developed into draft No. 4, and hopefully draft No. 4 will be the final draft.

That is basically the way we have organized the task force. Each of the four subgroups that we have are responsible to hold their own meetings, to contact the appropriate resources and do whatever is necessary in order to meet the June 27 deadline for the first draft.

Mr. **Kildee**. Thank you very much.

I think I would like to have the members of the task force come up around the table.

Mr. Hinson, from Mississippi, has arrived, and we welcome him here. He is deeply involved in this subcommittee, and we appreciate his continuing support.

What have been the resources or sources available to you in order to try to arrive at standards?

Mr. **Geboe**. Basically the sources have been the members, themselves, which is a very diverse group, because we have 25 members on our task force. We have people who actually operate contract schools on reservations; we have people who are involved at the tribal government level in the area of education, such as Sister Kateri, who is with the Papago Tribe. We also have Eddie Begay on the Navajo Board of Education. We also have people who are elementary principals and secondary principals in Bureau schools.

We also have people like Mr. Baker, who is a superintendent of a boarding school. So we have quite a bit of expertise with regard to our own committee.

Then we also have had an opportunity, I think at the second meeting in December, when we had Mr. Schember, who was the prime author for an accreditation study done on a national basis, I guess, and provided us with a great deal of information. We also had three other people, two from Mr. Relic's office in the Office of Education, and we had a Mr. Pipho, from the Education Commission of the States in Denver, Colo. We have also had Virginia Matthews, who was co-chairman of the pre-White House Conference on Indian Libraries, or something to that effect. She has provided us with a great deal of assistance.

The other thing we did is that when we first met in Salt Lake, we divided ourselves into three subgroups, and each of the groups then had responsibilities to fulfill. One of the groups was to try and study or review all of the Indian education studies that have been conducted and then to try and pull out the recommendations and pull them together. That was done.

We are also compiling a list of consultants that we will need to have in the near future.

Mr. KILDEE. What are the various subgroups within the task force?

Mr. GEBOE. Right now?

Mr. KILDEE. Yes.

Mr. GEBOE. One section has to do with administrative services within a school and also within a particular school district as such, which has approximately 12 major areas, such as policies, practices and procedures, organization control, and functions, and whatnot. The second area is instructional services A, which primarily deals with curriculum evaluation and also deals with the various levels of educational programs, such as senior high, junior high, middle school, and vocational education. We have a third section which is instructional services B, which has basically to do with learning media centers or libraries, special projects such as 94-142, title I, and so forth, music, career education, art, physical education, and whatnot. We have section 4, student services, and this is basically for support services such as health, exceptional child services, residential programs, food services, and whatnot. Those are the four sections that we have developed that people are currently working in and developing the standards for each of their sections.

Mr. KILDEE. Would anyone else at the table care to comment on the resources and the use of those resources?

Mr. GEBOE. I was wondering if I could say here, I think there are three basic problems that the task force is having to deal with, and they all come under one general heading. I feel sometimes people don't understand the complexity of the problem we are trying to deal with, and the complexity is such that writing standards is a little different than writing a course outline for general math. We have three general areas. One is the time. Time constraints are terrible in trying to develop the standards and the type of standards that we feel are necessary for the education of Indian children.

We are not only talking about maybe the possibility of wanting to request an extension of time, but we are also talking about the use of individual members time. We have people on our task force who do not work for the Federal Government and, consequently, have a lot more restrictions in terms of their time. The amount [illegible] time that I have spent on the task force I would never be able to do if I were a public school administrator, and I think this is something that I am afraid we are going to lose the private sector people because of the time that is going to be necessary to carry out this.

The second thing that we are faced with is the idea of resources, and by resources I am talking about permanent staff. When we were in Salt Lake City, we requested permanent staff in order to carry out the task of writing standards both for dormitories as well as for education, and the best we have been able to do so far is to have Mr. Baker come in as a detail for 60 days and then prior to that we had one of the other task force members come in for a week. We are coming to the point that if task force 3 is going to do anything, we pretty much have to do it ourselves. There are just not the resources available here in Washington to provide the support to task force 3 to get the job done.

Copy service is a problem. We have a resource tree, so if we need copying done, we know who on the task force we can request to get copying done and try to spread it around so not any one member of the task force is being overburdened with copy requests.

The third area is money with which to do the job, money in terms of just basic supplies. When we met here the last time in Washington, one of the five people, Mary Widenhouse, from Cherokee, N.C., brought a box of the basic necessary supplies, such as felt-tip markers, paperclips, general basic things, in order for us to carry on our meeting.

We have a problem of getting secretarial help whenever we have meetings, and how do you pay for it. I think the members, themselves, want to write the best type of standards that they can. That is the kind of people they are. They are all professional educators involved in education, and I think they all see their membership on task force 3 as a real opportunity to have input for the best interest of the education of Indian children. But good intentions are not going to do it. We are going to have to consider the time element, the resources element, as well as the financial element, and I am not sure what the answers are to those.

Mr. KILDEE. Mr. Lavis, could you comment on the money and support services for the task force?

Mr. LAVIS. I would be happy to. There is no question this particular task force, as in the case of all the task forces, have had to confront the same kind of problems. Sometimes it is a question of time in terms of getting resources like secretaries available to them. In other cases it is a question of expenses, all the copying that has to be done, and sometimes that is difficult in terms of finding out how best to do it at the cheapest cost. The money is there, and it has been, but I will be very candid at this point in the game, with a million dollars we have set aside to do the task, and we have 412 task forces, we have expended approximately $727,000 at this point, and I would be happy to submit the figures for the record. Each task force has a set of conditions and needs. One task force has completed a series of public hearings on Johnson-O'Malley. The task force dealing with Public Law 874 is settling on 12 sites for hearings in this particular area. Steering committee meetings, task force meetings, all have taken a toll in terms of cost, travel and per diem, and the rest. We have attempted to do what we can to supply the services where we can. But no question about it: It has been difficult in all cases in terms of acquiring the resources. We do the best we can, but I am not going to deny the fact that we have had our difficulties here and particularly with this task force, and they are absolutely correct; it has been partly their problem, as well as ours, in terms of identifying their needs clearly to us and our being able to respond effectively and efficiently for them. I think there are problems, but I will be willing to take most of the blame for it.

Mr. KILDEE. Has there been a request for a supplemental to assist them in carrying out their responsibilities?

Mr. LAVIS. At this point in the game, Mr. Chairman, there is not what we would call a supplemental window open for us in terms of requesting additional dollars. What we would have to do to acquire the dollars is take them off the top of allotments or reclaim additional dollars from the educational allotments, themselves. That is where the money would have to come from or we would be faced with a reprograming request and all the other requirements we have to go through to get the additional dollars. So we have some difficulties there.

Mr. KILDEE. Does anyone else at the table wish to make a comment?

Mr. LAVIS. I think in all fairness, I suppose, to how we are proceeding, we have, as you know, been willing to support the detail for Mr. Baker. We have proceeded to put together a personnel action for permanent staff for the task force. That is moving ahead. They have requested an RFP for their living standards. We have revised and rewritten a little of that RFP to conform to the procurement standards, so we are doing what we can to meet their needs, and I think we have made progress in the last couple months, but initially it wasn't very good.

Mr. KILDEE. If you have the money that you could reprogram, the Appropriations Committee has indicated they would look at that favorably.

Mr. LAVIS. I appreciate that, and they have been supportive of us. Our problem is at our end of the avenue in terms of getting through the layer of paperwork requests. I think, as we begin to look at the facts, we are running out of money with our initial million dollars, and there are other clear needs that we are going to have to deal with. For example, Mr. Geboe talked about time. Their timing up to this point, if we looked at it from the letter of the law, is to publish proposed rules and regulations 15 months after enactment, which would be approximately February 1, 1980. Three months after that, you go final. The Indian community, in their work with us, not only in this task force, but others as well, have indicated to us they don't like the Federal Register process. They feel locked in; they feel it is too cumbersome, and they don't feel they have a chance to influence the outcome once it is in that process.

What we are trying to do, because it happens to be the benchmark for everything we do in the Bureau of Indian Affairs from now on in terms of education, because once we set those standards in place it is going to affect everything else we do, what we want to do is make sure that we give the Indian community a chance to feel comfortable with the process. In this case, we have approved public hearings prior to publication of the proposed rules and regulations in the Federal Register. That way everybody will feel they have a chance to comment and participate without feeling the confines of the Federal Register process on them and the time constraints. They won't be locked into the language that the task force comes up with.

That is going to take some additional dollars to do that and, frankly, we are facing some real tough problems at this point.

Mr. **Kildee**. Does anyone else wish to comment?

STATEMENT OF REBECCA ADAMSON, MEMBER, THE COALITION OF INDIAN-CONTROLLED SCHOOL BOARDS

Ms. **Adamson**. I guess one of the comments I would like to make regarding the studies are that we do have five studies identified, and I think it is only fair to say that four of them were not turned in until the last Oklahoma meeting on April 26. Those five studies, totaled, have one RFP out on the dormitory residential cost analysis standards study. The other four studies that we have requested be done—one is a basic literature search of previous studies done on the Indian education problems. One is a tribal education model. We are trying to develop standards that will include and always reflect the tribal education values.

The third one is an alternative education system study to see what patterns are surfacing and repeating themselves in alternative systems of education, and the fifth is a study regarding Indian accreditation agency model. So once we get these standards, we know where to go with them, but, in fairness, those last four had not been turned in until April 24 and are in the process of being developed into an RFP to be let out under contract. But we are facing some money constraints.

Mr. **Kildee**. Mr. Hinson?

Mr. **Hinson**. Thank you, Mr. Chairman.

Mr. Lavis, I would be interested in knowing, what actual mechanism you have devised and implemented to provide input by the various Indian groups and tribes. In other words, how have you gone out and requested their feedback?

Mr. **Lavis**. Mr. Chairman, Congressman Hinson, the process that we devised was a task force kind of approach which is basically that the tribal governments were asked to nominate individuals to the various task force which we identified. One was standards, and we got a number of nominations for that particular task force. We attempted to balance the nominations regionally and also in terms of professional capacity, and in terms of tribal governments. Basically what we are dealing with here is a task force as a process. They represent the initial kinds of input, particularly from the tribal community, and I think you will find in most cases, most task forces we have identified are dominated by tribal representatives.

In terms of going out and actually getting input, in some cases we have to rely on the standard kind of process, the Federal Register, for comments in terms of a broad-based approach. But because of the time constraints of the legislation, in some cases we were not able to get that kind of input from that kind of broad effort, public hearings, or other approaches.

In the case of the standards, because they have a longer timeframe in which to deal, we felt this was the most appropriate kind of task force in which to apply a broader kind of input process, in this case public hearings late in the fall, and we would do that across the country.

In two other cases, on Johnson-O'Malley, we have had hearings in nine locations around the country in which the Indian community was invited to participate in the process by public hearings. We had a recorder there who took the transcript and we have provided those transcripts to the task force, and they have been diligently responding to those comments or suggestions contained in the hearing.

The second one we are dealing with at the moment is 874, which is going to be going out on public hearings because of the immense change that the legislation calls for in terms of relationship between the tribes and the public school district. We feel the tribes should have a full understanding in that particular case, Congressman, that is more of an information-briefing kind of format than it is rules and regulations, because more of that lies in OE than with the Department of Interior.

In planning our role as an advocate for the tribe, we wanted to make sure they have a different kind of role to play under that act than they have in the past, but the input—and the task force members are obviously free to comment as they wish—it probably in some cases is hit and miss, not as good as we like, but we think the task force process would bring to bear comments, criticism, and suggested approaches to develop the rules and regulations. Because, again, the whole thrust in this whole process has been to bring the Indian community in at the ground level and give them an opportunity to indicate their preferences and feelings about what those standards should look like. It isn't a question of the Bureau of Indian Affairs doing it in-house, or developing something at this level and pushing it down on top of everybody in the system.

I don't know whether that is entirely responsive to your question, but I hope it is.

Mr. GEBOE. We are in the process of doing two things. In terms of task force No. 3, one of our members has developed a survey instrument in which we feel there are appropriate questions we need to ask the various tribes in terms of what direction the standards are taking. The other thing is we also have another member who has compiled the list of all of the Bureau of Indian Affairs area offices, and we will be mailing out approximately 280 letters in trying to determine who are the prime contact persons on each reservation in the United States so that when we send something out or we send a survey form out or ask some questions or need some input, then we have several people on each reservation that would be approved by the tribal chairman or whoever it might be that we could contact.

This sometimes gets to be a problem, because I guess the time pressure is the same for you as it is for a lot of people. You can get a pile of things and stick it on the pile for something you are going to look at and pretty soon you see it is 2 weeks late, and we wanted to try to prevent that because the tribal chairmen do get a lot of information. So we are asking each tribal chairman, in addition to himself, who else do we contact in your particular tribe in regard to education standards, and we hopefully will have that kind of a result back fairly soon. That was mailed out last Thursday.

STATEMENT OF SISTER KATERI COOPER, DIRECTOR, DIVISION OF EDUCATION OF THE PAPAGO TRIBE

Sister Cooper. Mr. Chairman, in answer to Mr. Hinson's question regarding tribal input, to be truthful I think the tribes are confused right now. They really don't know what is going on. This has happened at several meetings. To give you an example, the Johnson-O'Malley conference that went on to review the formula, the majority of the tribes were there, and this was in Phoenix, and what came out of there, they were totally confused. The reason I am saying this is because from what I experienced when we did a lot of study and research before we began the standards, we need to constantly have tribal input.

When we do a study, we have to get their studies, also. There are some of us who are within a certain section area; for instance, maybe I am working for vocational educational standards, or early childhood standards, or whatever, to develop those areas. I should be able to request expertise or consultant areas in there for more study and research. We have found out even our central accreditation is outdated. So we have to do a lot more study in order to come up with a more effective standard that is going to meet the needs of all these Indian children. Our focus is Indian children.

To support what Mr. Geboe is saying, and it is true, there are a lot more studies to be done, and a lot more consultation to pull in for some of us, and it has been frustrating as a member of the task force that in the resources areas, we haven't been receiving them. We don't know where else to go. When should we do such and such a thing, because there is no support, there are no resources to fall back on.

I guess that is it.

Mr. Hinson. If I may ask one other question.

I would be interested in knowing whether you have contacted only federally recognized tribes or gone to independent Indian groups.

Mr. Lavis. Our general responsibility is federally recognized tribes. The extent to which the task force deals with other groups is their choice in terms of pursuing all the avenues they feel necessary in terms of defining or establishing or researching standards for their schools. But our general responsibility in the Indian affairs is federally recognized tribes. We are required, as part of the trust responsibilities, to deal government-to-government with those tribes.

Mr. **Hinson**. Do you believe that a uniform set of standards, such as we are apparently aiming at here, will serve the best interests of all the various Indian groups with their cultural and tribal differences? Should they be uniform nationwide, or should they take into consideration the various tribal linguistic, cultural attitudes?

Mr. **Lavis**. Mr. Chairman, Congressman Hinson, I would probably be the last person to answer that question. I think Mr. Barlow should answer it as a professional educator. I think my only response to that initially would be that I look at this legislation, and I see tremendous implications in terms of setting national standards in a community which seems to me reflects a tremendous amount of variance and differences and cultural desires, and I think we do run the risk sometimes of establishing a standard which may override those particular interests. It is a very clear, it seems to me, delicate balancing that we have to do here. It is not traditional in this country to establish nationwide educational standards; yet we are doing that in this legislation.

I think, at the same time, the committee did not structure the language in such a way as to preclude dealing with the variances or the differences that we find in the Indian community. I would be the last person to want to support anything which would override the basic interest of the tribal government in setting educational standards. That is my basic response.

I think Mr. Barlow should respond from the educational side.

STATEMENT OF EARL BARLOW, DIRECTOR, INDIAN EDUCATION PROGRAMS, BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

Mr. **Barlow**. Mr. Chairman, Congressman Hinson, the act mandates the publication of proposed minimum academic standards for the basic education of Indian children by February 1, 1980. That is mandated. Furthermore, it requires the publication of the final minimum academic standards by May 1 1980.

This is tempered with some discretionary kind of language. For example, the Secretary shall take into account the special needs of Indian students and the support and reinforcement of this specific cultural heritage of each tribe, and we will be paying close attention to this specific language because Indian people are the most diverse group of any minority in the United States. Unfortunately, Indian people nationally have been stereotyped, and we are not going to continue this as we implement this law.

Furthermore, a tribal governing body—and this is the language of the act—or the local school board, if so empowered by that tribal-governing body, shall have the authority to waive in part or in whole the established standards if approved by the Secretary.

So I believe we have the flexibility built in to address the concerns that you are voicing, and which, incidentally, Congressman, I wholeheartedly agree with you. I think it would be a very tragic mistake if we were to come on with a national set of standards and then have no flexibility, no leeway for the Indian people to take into consideration those kinds of differences that are unique to each various tribal group.

Mr. **Hinson**. Thank you very much.

Mr. **Kildee**. Mr. Erdahl?

Mr. **Erdahl**. Thank you, Mr. Chairman.

I think several of you indicated that there are three problem areas. One is the constraint of time—and I suppose we are all under that to a certain extent—resources and money. My question would be to any one of the panelists here, Do you feel that the Bureau of Indian Affairs should do a better job in providing at least a permanent staff or temporary staff? That seems to me to be a need, even if it is a small staff of secretarial help or something to enable this task force better to coordinate its activities and come up with the ultimate report you are charged to make. Does anyone wish to comment?

Mr. **Lavis**. Before I answer the question, I think the task force members should speak, and then we might want to respond to that.

Mr. **Erdahl**. Fine; I hope they would.

Sister **Cooper**. Definitely. I was very astounded because the Bureau had sent in Mr. Baker to do the coordinating for us, and I was just floored that he was sitting there doing the secretarial work, a principal of a high school. We had requested some time ago for a coordinator up here, plus a secretarial position to constantly feed back to us whatever minutes or any type of consultant work that we need to utilize, and we haven't seen that yet. I would strongly support that we get someone to manage up there, to be allowed to completely manage that area without going through so many different areas before anything comes through.

Mr. **Erdahl**. Thank you.

Does anyone else want to comment? I think it is a key point to have at least a coordinator or some secretarial office help. In listening, and I am a novice in this body, it struck me that that seems to be one of your deficiencies in trying to meet what evidently is going to be a problem. Is there enough time remaining, at the present rate, so to speak, of input, to get the required task force report in so far as the implementation of these rules and regulations? Maybe someone else wishes to comment on my earlier question about the need for staff.

Ms. **Adamson**. Maybe I will comment on both. I truly believe there still is time, and we are not naive. We are under a tremendous time crunch. But one point I would like to make is that if a school is already operating to become accredited and goes to an accrediting agency, that process takes a year to 2 years to undergo, and that is with existing standards. We are facing developing standards. We don't have any standards existing that can reflect what we are attempting to do here.

We are trying to protect a variety of cultural values and reflect an entire tribal education system and allow for schools within that system to develop under standards. It is a very complex issue and problem.

I think for sure permanent staff would help. I think what we went up against was a piece of legislation that was enormous in problems such as standards which we are wrestling with. Four of those functions of task forces within this 95-561 are pretty far down the road now, and I think standards have a lot more room now to develop and accelerate in what they are trying to do. I see these five studies that we talked about earlier as really getting us a lot further down the road. Once we get the information that we need from those five studies and a staff that will disseminate them to the task force, I think we still stand a chance of accomplishing it. I think part of the problem of getting a permanent staff is that there was so much other stuff to do up there.

STATEMENT OF JIM BAKER, SUPERINTENDENT OF CHILOCCO AND COORDINATOR FOR TAX FORCE

Mr. **Baker**. Mr. Chairman, Congressman Erdahl, if I were, as the acting coordinator, to prioritize the three problem areas that were spelled out by Chairman Geboe, I would have to say that the time constraints that we are working with probably are the greatest enemy at this present time, and, second, of course, the permanent staff to carry out the day-to-day work, such as the logistics, planning, contacting resources, making arrangements for the various subcommittees to meet, and getting their resources out to them.

These are tasks, day-to-day tasks, I think, that the coordinator would have to be doing, and all of these have time constraints tied to them.

Another example, some of the RFP's that we need, this requires a number of weeks to develop and get out to the field, so if I had to say that there is one problem area that will prevent us from meeting the deadline, it would have to be the time constraint, itself. I am very much concerned that the February deadline that we have to present the final draft may not be adequate time.

Mr. **Geboe**. In regard to the time, a lot of it depends on what kind of standards you want. We can get it done. We can have the standards finished, the first draft by August 1, and we can have the third draft by the time February rolls around; but I guess the thing that we are concerned about is the quality of the standards, because again you get into the complexity of it.

We talked to Mr. Schember, who developed the 7,500-page document comparing standards throughout the United States, between the different States, and he said it took him 3 years to collect the data. He doesn't feel that we have enough time to do the things that we are attempting to do. It just gets down to what kind of standards a person wants to have.

The other thing in terms of the staff, yes, I think if there was a task force staff that could be used, I think it would be great. The only problem is we are very selfish about that because the central office is so understaffed, itself, and I think that is part of the problem. When we ask for assistance from the central office, it is not possible, I think, in many cases for them to supply that because they don't have the staff themselves, so I would hope if we were able to have the staff, there would be some sort of constraints placed on the staff so they would not be sidetracked into other areas, doing some other things.

But I don't think that they were realistic in setting the original 15 months for standards, and I think that the reason is because they did not understand the complexity of the problem, and I think what Congressman Hinson is talking about in terms of the tribes and cultural groups that it has taken us this long, since the Salt Lake meeting for the task force, itself, to be able to address the issues, such as the philosophical base of how do you go about developing the standards. It took us half a day to argue out what is the interpretation of a minimum academic standard, and it is surprising that you had 25 people, and I am sure we had 15 different points of view.

So I am afraid we are not going to have enough time to do a good job.

Mr. **Erdahl**. Just a couple of comments.

I think the gentleman from Mississippi, Mr. Hinson, asked a very valid question that got a good response because the standards shouldn't be inflexible and different situations exist in different regions of the country.

In Minnesota, I know we have different situations with Indians that live in the urban areas versus the northern part of the State. I think that is a good point to be aware of and to follow.

Also, the Federal agencies and the Congress get voluminous reports. I hope your goal will not be quantity but rather quality. I think that is a good goal we should have in any type of report, to have input from a variety of people, Indian leaders, residents in the Indian communities, students that are affected.

I think a good, brief report is better than a long, sloppy one.

STATEMENT OF J. D. FOSDICK, MEMBER OF TASK FORCE AND MEMBER, OFFICE OF INDIAN EDUCATION PROGRAM

Mr. **Fosdick**. I think there is one point that has not been emphasized. When we began to set up the standards, the idea was that in all considerations we were going to think of government-to-government relations with the tribes and also in terms of self-determination which means that their basic culture, their basic language, would be taken into consideration in the development of these standards.

Mr. **Erdahl**. Thank you, Mr. Chairman.

Mr. **Kildee**. Thank you, Mr. Erdahl.

Let me revert to my role as teacher and welcome the students who have joined us this morning. Thank you for joining us.

Mr. Geboe, what you indicated as the time guidelines, that they are inadequate and do not give you the time to do the quality of work that you would like to do, what guidelines or what time down the road rather than a February 1980 deadline, would you suggest would be needed to allow you to develop quality guidelines?

Mr. **Barlow**. We may want a caucus on this, Mr. Chairman.

Mr. **Geboe**. It is kind of hard to say offhand, but I think a figure probably all on the task force would agree to would be May 1980 instead of January. I think being able to gather the material and being able to review it, all those things take time.

I would think that May would be a much more appropriate time than it would be then.

Mr. **Kildee**. Of course, right now the statute requires that February deadline. It would appear extremely unlikely, virtually impossible, to change those guidelines within the statute. We could not do it ex parte. It would require the action of the full Congress and the approval of the President to do that.

But I was just curious as to what you felt might be an appropriate time.

Mr. **Geboe**. We will probably have a better idea when we meet on the 28th and 29th of June because that is when we will have the materials that everyone is working on. That will be our first draft that we will have gathered together. We are talking about probably 3 weeks where small groups get together 1 week at a time to sit down and do the actual writing or revising of the standards with meetings in between of the task force for approval and for comments.

Mr. KILDEE. Mr. Fosdick?

Mr. FOSDICK. Thank you. I would like to comment on that.

I sincerely hope that the task force gives some consideration to at least partial completion of some of the standards as quickly as possible. I know Mr. Lavis has asked us if we could possibly have the standards delivered on August 1 for tribal consideration. I think it is extremely important. I think it is important for several reasons.

Most importantly is the one that deals with the history of the Bureau of Indian Affairs as I have known it for the last 30 years. The Bureau, under the directorship of Willard Beatty and Hildegard Thompson which ended, I believe, in 1965, had a continuity to it and also had a staff that were the standard bearers for the Bureau of Indian Affairs in respect to the education program.

In the last 12 to 14 years, the average term of a Director of Education has been approximately 9 months, if not less. Therefore, it has been a serious problem for the Bureau to actually have standards. We have lost the process. We have lost the staff. We have lost the direction.

I think Public Law 95-561 affords the opportunity for the Bureau of Indian Affairs to recapture what it was and what it once did that I thought was exemplary.

Also, you have afforded the Bureau, through your legislation, the opportunity for the standards group to actually cost out what it is going to take to raise the quality of education.

Therefore, it would seem to me as though it is incumbent if the task force so decides, to consider expeditious delivery of as many of these standards as quickly as possible so that they can be referred to the tribes for their consideration.

Thank you.

Mr. KILDEE. Thank you, Mr. Fosdick.

Mr. Lavis, do you have a comment on this?

Mr. LAVIS. On the time factor, Mr. Chairman?

Mr. KILDEE. If you wish.

Have you mulled over in your own mind what type of support services the BIA itself might be able to give to the task force to assist them to meeting the time line guidelines in the statute?

Mr. LAVIS. I think we are assisting them in the guidelines that they have requested. I am not going to hide behind the fact that this creaky old Bureau doesn't always get its paperwork processed on time. We have been getting our paperwork processed on time so people can compete for it.

The same is true for RFP's. We are under procurement rules and regulations in publishing those for people to bid on. So I am going to do everything I can, and I made that commitment to the task force, to give them all the resources that they possibly can use.

I want to second what everyone is saying here, that the complexity of all of this is monumental, and particularly as we try to connect these standards from bureau schools to contract schools as well. The contract schools have a very strong feeling about standards because they see themselves as the leaders in the field, not necessarily the followers. So we have those considerations.

But in terms of resources, on the one hand I am facing some very serious financial problems at this point in the game. On the other hand, I want to do everything I can to give this particular task force all the resources they need to do the job.

Mr. KILDEE. I hope you would do that. I think we want people to use as much ingenuity as is possible within the squeaky, old bureaus. Very often all of us assign the blame on the creaky, old bureaus, but Government is essentially people and it is people working within the system that makes things work.

I hope you will use every type of ingenuity within your domain to provide them with the support services.

Mr. LAVIS. Up to this point I am doing everything I can.

Mr. Geboe?

Mr. GEBOE. Just a point of clarification.

In the law it mentions $1 million. Is that $1 million for all the task forces to use or is that $1 million for like the Standards Task Force to use in terms of carrying out the studies?

Mr. LAVIS. I can answer that question, Mr. Chairman.

That $1 million in the law refers to studies for the standards section. The $1 million that we are talking about is money that we have taken off the top of our education allotments for fiscal year 1979 to provide for implementation.

Clearly, the question of studies and all the rest is money we will be happy to allocate as the task force sees fit to define its needs to us.

The problem is, of course, that that was an authorization. It is not an appropriation. We did take $1 million and start the ball game rolling. We would then have to find some additional dollars not only for both the task force implementation across the board, but for these studies as well.

Clearly, that is going to pose some problems for us, Mr. Chairman.

Now, the practice up to this point has been, at least for the last 2 years as I recall, and particularly last year which is my first year in this kind of process from that end of the avenue, is that the Appropriations Committee took their supplementals at the very end of the process; that is, they did not enact supplemental funding until almost September or October of last year for that particular fiscal year, fiscal year 1978.

They seem to be approaching the same way this year. They want to get their big bill out of the way first before they deal with supplementals for the existing fiscal year.

Mr. KILDEE. Have you asked for a supplemental?

Mr. LAVIS. No, sir, that opportunity has not come to us yet.

Mr. KILDEE. That is within the structure of the executive branch.

Mr. LAVIS. That is right. It also has a lot to do with the scheduling on the Hill.

Mr. KILDEE. I think inasmuch as we do have a brand new law which holds out hope for improvement in Indian education, that it might be an appropriate time to be getting into that system through which you would seek supplementals.

I recognize you have procedures which you must follow in the executive branch of the Government. But I think you should deeply consider how to plug yourself into that procedure.

Mr. **Lavis**. First of all, we are going to ask for a supplemental to replace the $1 million that we took off the allotment.

Second, depending on the requirements of this particular task force, we will ask for $1 million to complete those particular studies. How successful we will be through that long process, I can only speculate at this point.

Mr. **Kildee**. The law has State standards mandated as a level below which BIA standards cannot go.

However, the wholesale adoption of the State standards is not what the law calls for. It calls for relevant standards which may be above or in addition to State standards.

What is being done to arrive at these relevant standards? Rumors have flown that State standards will be accepted wholesale. Is there any substance to these rumors?

Mr. **Geboe**. No; there is not. The process that we have gone through is in order to kind of take a look at what has been done on a regional and State level. We have reviewed all of the regional standards to see what kind of framework they use, type of language, the level that they may be dealing with.

We have also done the same thing with some States. We have also gathered material and information regarding State standards. I think that it merely reinforces the belief of the members of the task force that we need to come up with some innovative and different standards for the education of Indian children so that it does protect the culture and the language groups that the children come from.

So, no, there is not going to be any wholesale saying these are the best State standards that we can come up with and we will use those. We wanted to take a look.

I think one of the things that we have found is that the State and the regional standards are pretty much kind of political standards. I mean, you have some States where there are no standards. They leave it up to the local school district. And you have some States that have very strict standards.

So I think that what we have looked at is to try and come up and say we want to come up with our own standards that are going to meet the needs of the children that we are dealing with.

Mr. **Kildee**. Mr. Barlow?

Mr. **Barlow**. I wanted to mention in one of my meetings with the task force, I did mention that in some States that I am familiar with, it is a requirement that before any school can participate in interscholastic kinds of activities, that they must be accredited by that State.

I am certain that our secondary bureau schools certainly want to participate in athletics and speech and music and so on. So that is a consideration that the task force is faced with.

Mr. **Kildee**. I think that is why the statute said that that is the floor below which the BIA standards cannot fall, but that is only the floor.

Does anyone else wish to comment on that question?

Mr. **Baker**. Yes, Mr. Chairman.

One of the problems that I see in the State accreditation language that it has in the law is that, first of all, we as a task force are going to have to determine who we are writing the standards for.

In other words, the Indian students at the schools we are now serving, who are they? We have to determine this. As far as the State standards are concerned, it is pretty much determined on the general population of our American youngsters.

So these are who the standards are written for. However, when we get into the Indian population, and we are dealing with primarily a different breed of youngsters, particularly the all-Indian schools, many of our Indian youngsters in our Indian schools are in Indian schools because of maybe some problems in public schools.

So we have to determine who they are. I think this further adds to the complexity of the standards that we are working with.

As I said earlier, the time constraint does hinder us from finding out more specifically and in great detail who these students are so that we can develop these standards to best meet whatever needs show up in the study that we have to do.

Mr. **Kildee**. Does anyone else wish to comment?

Ms. Adamson?

Ms. **Adamson**. When we first started out, we used the State as a base so that the way we had the process for developing our standards was that the framework and the skeletal standards would be the State and regional accreditation framework, at which point we would then review and search out the alternative education system and the tribal education models and begin dovetailing them into the framework so that the ones we got out of the tribal models would dovetail into the regional accreditation. The ones that did not fit from the regional aspect would be thrown out, and where they were totally different, they would be added to it.

So that right now we do have State and regional as a framework. But the dovetailing of those five other areas will begin as soon as the studies are out.

Mr. **Kildee**. Has the Standards Task Force worked in concert with any other task forces? For example, policies or formula? Have you had any joint meetings or any formal contacts with the other task forces, particularly those two?

Mr. **Geboe**. We have had some contacts where members of task force 3 have attended the meetings of some of the other task forces. We have not had any joint meetings where a particular task force, whatever it might be, and task force 3 would be meeting together, no, we have not.

Mr. **Kildee**. Mr. Fosdick?

Mr. **Fosdick**. I think you have a question that is extremely important for the Standards Task Force in the area of coordination. To use the Allotment Task Force as just one example. The Allotment Task Force was constrained to develop their formula for the equitable distribution of dollars. I believe that was a May 1 deadline of this year.

When the allotment formula group, task force, performs its tasks, they will have automatically established standards, unfortunately.

It presents a real problem for the Standards Task Force and also for your consideration because the day will come when we will need to ask for reconsideration of the allotment formula because at the present time, of course, the allotment formula cannot consider such important programs as early childhood education. The dollars are not there for it.

The dollars are not there for the bilingual program. The dollars are not there for the cultural programs in your legislation that you have asked us to consider for the tribes and for the children in the schools.

So there are many areas like this, vocational education, that could be enunciated, where the Standards Task Force and, hopefully, the Allotment Formula Task Force, and all other task forces will be able to get together so they can come forward with a standard that can become a realizable one.

Mr. KILDEE. Mr. Lavis, on that, has the BIA thought of the relationship between formula and standards, because standards certainly will determine how much money is required. They are directly related.

Mr. LAVIS. Yes, sir, Mr. Chairman.

As I indicated in previous hearings, one of the key problems that we have had to face with this legislation is sort of the reverse way of putting this together. I have indicated then and I will indicate again that the way we should have done it is to—and I say we, you and I—the way we should have done it is to put the standards and policies at the front end, and then as we conclude our steps on those issues, drive those standards and policies through our functions and process that we ultimately reflect in those standards and policies.

For a number of reasons we have done it the other way around. In some regards it has some advantages and disadvantages, particularly in terms of focusing on reform and in turning the Bureau of Indian Affairs programs around. Some of these things had to come at the front end.

Let's talk about allotment. For example, the Allotment Formula Task Force had 6 months in which to conclude their work. They had even less in terms of getting those proposals and regulations together.

Now when you are talking about something as monumental and as far reaching as an allotment formula which not only is a formula designed to allocate funds equitably but also to deliver those funds to each bureau and contract school, you are talking about major monumental change from the way we have done business in the past.

This fiscal year 1980 budget has been developed with the process of where the tribes set priorities for their schools. In the middle of the stream, so to speak, we changed the game. We established new rules and approaches to funding those schools.

Now, Mr. Chairman, this legislation clearly understood, I think, the relationship between the allotment formula and standards because it mandates that very clearly in the law, that the formula take into account and reflect accurately the standards established by sections 1121 and 1122.

I have no hesitation whatsoever to saying here on the record very clearly and vociferously that we are going to be sure that formula reflects those standards at the appropriate time.

I think those standards are going to come at the exact moment in terms of putting together the fiscal year 1981 budget. I am sure Mr. Barlow, in putting together his 1981 budget, has taken into account that the formula will have to be adjusted to take into consideration those standards.

The Allotment Formula Task Force proceeded as best they could under the circumstances of meeting their requirements and mandates. The Standards Task Force is proceeding on their schedule in their approach.

Again, I want to repeat it very clearly to this committee and to its members, that as far as the Allotment Task Force is concerned, their work which will ultimately come at the end of this fiscal year. Nevertheless, the structure and the mechanics are there.

The Director of the Office of Indian Education programs is going to take the task force work on standards and accurately reflect it through the formula. That may invoke some other changes and as great as this one will involve in fiscal year 1980, but that is what the law requires and that is what we are going to do.

Mr. KILDEE. Having worked on educational formulas for 10 years before I came here, I realize that they are not cast in stone. Each year we hopefully got better ones in Michigan when I was in the Michigan Legislature.

So we recognize that that formula has to be dynamic as hopefully 95-561 itself will be dynamic.

So we want to work closely together on that to make sure it does serve the purpose.

Mr. LAVIS. We have about five or six regulations to be published shortly. One of the real excitements that I have had here is the formula coming out of the Allotment Task Force. This has had some very high-powered consultants. It is one of the more dynamic groups we have had.

I think the results will be pleasing. It is going to cause some pain in some areas of the country and some schools. But I think in the long term we are beginning to see and I think we are going to see a tremendous amount of credibility in terms of developing that formula.

But, again, it is very clear that the Standards Task Force has a tremendous role to play in that allotment because it is going to end up with the opportunity, as required by the law, to make sure that allotment works in relationship to those standards.

The great thing about that allotment formula, the formula itself, is that we have a greater opportunity to influence educational outcomes through that mechanism than we have ever had in the past in terms of the Bureau of Indian Affairs. I think that is a tremendous opportunity.

Mr. KILDEE. I think it is inevitable with such a new law as Public Law 95-561 that there will be some occasional weeping and grinding of teeth as we develop it. But I think it is still one of the greatest acts ever enacted to move Indian education down the road.

So there will be problems. We are certainly not lacking understanding of the enormous task that you have to do. We want to work cooperatively with you. Our questions here are really for our enlightenment.They also create a record, of course, but for our own enlightenment, too, so we can make a cooperative effort with you.

That is one of the reasons I brought all of you up to the table because I like to have as much input as possible.

Sister **Cooper**. I see we have another task force member, Mr. Joe Dupris, who represents the Coalition of Indian School Boards.

Mr. **Kildee**. Would you please come up to the table?

Would you like to make a statement to the committee?

STATEMENT OF JOSEPH C. DUPRIS, MEMBER, COALITION OF INDIAN SCHOOL BOARDS

Mr. **Dupris**. Thank you, Mr. Chairman.

The Standards Task Force has been working with Salt Lake City which is about 3 months now. As such, we have a tremendous task as indicated by the members who have already made a presentation.

We have been hampered, of course, by the lack of staff and support, but that has already been mentioned. I think that there has been great effort by the central office to accommodate in every way. There, again, there is not enough money appropriated specifically for the task. It is a tremendous responsibility for those people on the task forces who have other jobs and have other tasks, that they must compete in those jobs. This is in addition to that.

In order to provide adequate and appropriate attention to these standards, it is imperative that there be a permanent staff so that the people who are on these task forces from the communities, from the Bureau, and from the contract schools, are not placed in jeopardy themselves in their attempts to provide for quality standards.

The time frames are very, very difficult. The pressures are very heavy on each task force member, as each one of them can testify, and including the central office which does not have enough staff to assist us at all times.

This goes as far as not being able to even get Xeroxing done because there are no secretaries in the central office to be able to assist us on that. That is a continuing problem. It is something that the task forces, all of them, have to deal with and all of them have to be responsive to.

So we all pitch in to try to do the best we can with our own resources and with our own staffs as necessary. It is very important to try to find a way in which to assist us in breaking out that $1 million for the studies.

Without that $1 million that is named in the studies, it is going to be very, very difficult to come out with quality work because, again, we do not have time to do it as a second job, as it were.

On the issue related to the State and regional accreditations, we have gone over those items. From an initial perspective, a set of standards can be developed which meet all the State and all the regional accreditation requirements and not help the Indian child a bit.

As such it is even a greater burden for us on the task force and the Bureau and eventually the congressional committees and appropriations and others to understand that there are cultural differences, linguistic differences, and other needs which cannot be met by State standards and cannot be met by regional accreditation standards.

They are not designed for culturally different multilingual students. That is what we are attempting to deal with. It is very, very essential to understand that and move from a new set of alternative standards which have alternative accreditation requirements which then can assist the schools, not only the Bureau schools but the contract schools in their efforts.

The Standards Committee needs to deal with two different types of standards as well, and perhaps even three. You have the standards for the Bureau of Indian Affairs schools which are operated by the Bureau. That is a set of standards which must be developed for all those schools. And then in that same component, each of the school districts which serve the various tribes must then be available for alteration, depending upon the individual tribes that they serve and that school board.

So you have a basic set and then you have an alternative set. Now that alternative set must be processed if they wish to have a change or waive any part of that standard through the Bureau of Indian Affairs procedures, and then final determination by the Assistant Secretary.

The contract schools, however, the tribal schools have a whole different operation. They may operate for or may operate out of or establish totally new standards for themselves.

Now it was placed into the act in a section which would allow those contract schools or tribal schools to be able to develop specific alternative standards and then have them funded through the same mechanism.

The formula that is developed is not site specific. The formula that has been provided is a broad spectrum, equalization of money. When we get to the standards there are these three different types of standards set which will require those formulations to be site specific which means that you would have five different schools and each of them may have five different funding needs based upon the language, based upon the cultural needs, based upon the tribal expectations for their children, and based upon perhaps, if it is a bureau school, the authorization by the Assistant Secretary.

So the implementation, even after we have established the standards, is going to be a monumental task. The members here on the panel have spoken to most of the issues quite handily. Later on we are hoping, when the regulations are published, that the committee will hold a hearing so that the tribes and the organizations that helped in the beginning of this legislation, that the committee will hold hearings for them as well so that the full spectrum of the Bureau and the tribes and the organizations that are interested in education will be able to comment on each one of these.

So, again, in the interest of information, the committee would be brought up to date as to the tribal needs and also the interface with the Bureau which is considerable lately, and through this task force development has brought more people into the whole process than ever before.

This is a clear example of involvement. Instead of taking the procedure where they could have developed the rules internally like the Office of Education is doing with part A, they have involved people, which is commendable. We have higher expectations now, and through this involvement we, of course, want more involvement.

Any time that occurs and the expectations rise, there will be greater and greater attempts to have more and more involvement. The tribes, I am sure, will have a great many things to say about the standards, the formula, and the other items that are coming up.

Mr. KILDEE. Thank you very much, Mr. Dupris. The committee may wish to submit some questions in writing, so we will leave the record open for that.

I want to thank all of you this morning. I look forward to working with all of you. I have made a commitment to Indian education, and you are really key people in helping this subcommittee and the Congress in implementing in a very meaningful way 95-561.

So I wish to thank you for your very good input this morning.

Mr. LAVIS. Thank you, Mr. Chairman. We appreciate the opportunity to appear before you again to answer your questions. Of course, we are always ready at any time to come back for any further hearings.

Thank you very much for your support.

Mr. KILDEE. Thank you.

The committee is now adjourned.

[Whereupon, at 11:37 a.m. the subcommittee adjourned.]

[Material submitted for inclusion in the record follows:]

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20245

IN REPLY REFER TO:

MAY 14 1979

Mr. Allan Lovesee
Committee on Education
and Labor
402 Cannon House Office Bldg.
Washington, D. C. 20515

Dear Mr. Lovesee:

At the present time the Assistant Secretary - Indian Affairs is considering various steps and options to assure the continuing participation by Indian people in the implementation of P.L. 95-561. Some of these steps and options are:

I. TASK FORCE CONTINUATION

When the Steering Committee and Task Forces were formed by the Deputy Assistant Secretary, their primary purpose was to meet the requirements of the law up to the point of implementation. There were specific deliverables spelled out in P.L. 95-561 with designated time frames. Upon completion of their current assignments, some of the groups will disband and others will continue. Among those on-going will be the task forces for Standards, School Boards and Management Information Systems. Through this vehicle, continued input from Bureau constituents will be accomplished.

II. CONSULTANCY PROCESS

The provision for consultation by the Bureau with Indian people is a mandate by law, the expressed policy of the present administration, and a major issue found in GAO and congressional reports. P.L. 93-638 provides the most obvious evidence that Congress recognizes the obligation of the United States to assure maximum Indian participation in the direction of educational services to Indian communities so as to render such services more responsive to the needs and desires of those communities.

Towards this end, the Bureau is undergoing contract negotiations with the National Tribal Chairmen's Association to carry out a consulting process as described by the parties concerned. This may be the first of two such contracts to be entered into by the Bureau with appropriate national Indian organizations. It is expected that P.L. 95-561 will be included in the NTCA contract.

III. OTHER AVENUES OF INPUT

P.L. 95-561 provides for a strong leadership role by the local school board in conducting the Bureau's educational program. Obviously, school boards will be maximally utilized for gathering input on education issues. Additionally, Indian education organizations will be consulted as appropriate and committees will be used when it is constructive to do so.

Another method of establishing communication with people served by the Bureau is through the periodic publication of a BIA education directory. Such a directory will help provide a sense of unity and purpose and will include names and locations of school board members and leaders, school staff, and principals, as well as agency, area, and central office education personnel. A sense of identity with such an important endeavor as the operation of a new national Indian School System will enhance communication throughout the Bureau.

The above are a few of the activities underway or planned by this office to provide for continued Indian input into the implementation of P.L. 95-561. We will keep you informed as new activities develop. Also, attached for your information is a working paper outlining the tasks and objectives for the development of an implementation plan for P.L. 95-561. The projected target date for completion of the implementation plans for the various tasks is June 1, 1979.

Sincerely,

Earl J. Barlow

Earl J. Barlow, Director
Office of Indian Education Programs

Enclosure

BUREAU OF INDIAN AFFAIRS

DISCUSSION DRAFT FOR MEETING WITH TASK LEADERS
P.L. 95-561 IMPLEMENTATION TASK WORKPLANS

SUMMARY OF TASKS AND OBJECTIVES

TASK	OBJECTIVE
PW	Develop an overall structure for the implementation plan.
1	Identify and address unresolved issues regarding BIA education policies, functional assignments, organization questions, procedures and practices.
2	Implement the allotment formula for operation of schools and validate initial allotments.
3	Identify implementation steps for a direct funding mechanism to distribute and control allotments to BIA and contract schools.
4	Resolve outstanding issues regarding JOM programs and funding.
5	Resolve other issues regarding funding of Indian education programs.
6	Prepare an implementation schedule for a management informaton system (MIS).
7	Coordinate the development of implementation tasks with other divisions of the BIA with responsibility for education-related activities.
8	Identify implementation steps regarding standards for all basic education, dormitories, and construction of school facilities.

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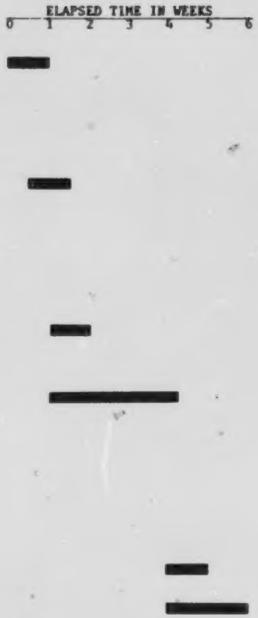
PRICE WATERHOUSE & CO. ASSISTANCE TO THE BUREAU OF INDIAN AFFAIRS

DEVELOPMENT OF AN IMPLEMENTATION PLAN FOR P.L. 95-561

Objective-Develop an overall structure for the implementation plan.



Step PW-1 Identify scope of P.L. 95-561 implementation plan.

- o Review P.L. 95-561 and current Bureau plans.
- o Identify preliminary requirements for implementation tasks.
- o Present requirements to Bureau and secure decision as to scope of implementation plan.

Step PW-2 Meet with Bureau to assign responsibility for each implementation task to Bureau task leaders.

The responsibilities of the Bureau shall include specification of individual assignments to Bureau officials and the development of all individual implementation task plans. Price Waterhouse will participate in selected task areas as described below and coordinate the effort through the development of an overall Bureau-wide implementation plan. The overall plan will be based on the individual task plans prepared by the Bureau task leaders.

Step PW-3 Develop and distribute a uniform format for implementation task plans; assign deadlines for completion of individual task implementation plans; establish monitoring and control procedures for development of implementation plans; monitor completion of implementation plans.

Step PW-4 Participate with Bureau task leaders in developing particular implementation plans in the following areas:

- o Functional assignments and organizational issues (Task #1).
- o Procedures for allotments, distribution of funds, financial planning and control (Task #3).
- o Management information systems (Task #6).
- o Education-related activities of other divisions--i.e., support services, vocational education, etc. (Task #7).

Step PW-5 Review individual task implementation plans as they are completed. Work with task leaders to resolve outstanding issues.

Step PW-6 Prepare overall implementation plan based on input from individual task plans developed by the Bureau task leaders. The implementation plan shall include such items as time schedules, assignment of responsibilities, relationships and priorities among tasks, monitoring and control procedures for the entire P.L. 95-561 implementation effort.

BUREAU OF INDIAN AFFAIRS

ACTIONS TO BE TAKEN AND ISSUES TO BE CONSIDERED IN DEVELOPING AN IMPLEMENTATION PLAN FOR P.L. 95-561

BUREAU TASK #1	Responsible Office and Representative	Deadlines*
Objective-Identify and address unresolved issues regarding BIA education policies, functional assignments, organization questions, procedures and practices.	Director/OIEP, Lamb	

Step 1-1 Identify and evaluate alternative organization schemes for the OIEP at all levels - Central, area office, and agency level. Prepare Department Manual revisions.

Step 1-2 Determine the organization and reporting structure of the Office of the Director, OIEP, and prepare Department Manual revisions.

Step 1-3 Determine the roles of agency and area education staff under P.L. 95-561. Address such issues as the following:

- Are there staff (as opposed to line) functions that can be performed in the field at the area level on an interim or long term basis?
- To what extent have individual area offices developed unique functions and practices that need to be accommodated under P.L. 95-561 (e.g., shared reponsibilities for programs by more than one area)?
- What functions performed by non-education staff at the agency or area level must be assumed by education personnel (e.g., boarding schools and dormitories)?
- How will Title I and special education functions be handled?
- Should agency staffs be expanded to perform functions previously performed at the area level?
- What staffing adjustments and/or reutilization will be necessary at the area level?
- How should necessary personnel/staffing adjustments be carried out? Can they be phased?
- Should tribes be able to contract the position of school superintendent for BIA schools?

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* To be developed by task leaders; most steps will have deadlines prior to June 1, 1979.

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BUREAU OF INDIAN AFFAIRS

ACTIONS TO BE TAKEN AND ISSUES TO BE CONSIDERED IN DEVELOPING AN IMPLEMENTATION PLAN FOR P.L. 95-561

	BUREAU TASK #1	Responsible Office and Representative	Deadlines*
Step 1-4	Review current education policies and outline new or revised policies that must be drafted to reflect P.L. 95-561.		
Step 1-5	Review current education procedures and practices for consistency with revised policies and functions and outline those that must be redrafted.		
Step 1-6	Develop the detailed tasks, time schedules, milestones, responsibilities and critical path relationships to develop and implement revised policies, functions, procedures, and practices.		
Step 1-7	Establish target dates and develop detailed tasks, time schedules, responsibilities, and critical path relationships for implementation of policies and procedures regarding Indian control of Indian education and Indian student rights.		
Step 1-8	Determine who will be responsible for negotiation and signing of contracts for contract schools and other purposes; establish procedures for handling these contracts this fall.		
Step 1-9	Issue formal notification of the direct line authority decision regarding the Director, OIEP, facilities management, and common support services.		

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* To be developed by task leaders; most steps will have deadlines prior to June 1, 1979.

BUREAU OF INDIAN AFFAIRS

ACTIONS TO BE TAKEN AND ISSUES TO BE CONSIDERED IN DEVELOPING AN IMPLEMENTATION PLAN FOR P.L. 95-561

BUREAU TASK #2	Responsible Office and Representative	Deadlines
Objective-Implement the allotment formula for operation of schools and validate initial allotments.	Director/OIEP, Marich	
Step 2-1 Obtain approval of the allotment formula and of the estimated allotments for the first year. Establish the date for releasing allotments to schools.		
Step 2-2 Specify the means of collecting the data necessary to prepare allotments and of verifying their accuracy.		
Step 2-3 Determine the BIA computer and manual processes necessary to develop allotments under the formula selected.		
Step 2-4 Identify schools receiving significant changes in funding from previous years and obtain approval for phasing strategy as necessary.		
Step 2-5 Develop the detailed tasks, time schedules, milestones, responsibilities, and critical path relationships regarding the preparation of allotments for the coming school year.		
Step 2-6 Determine how pre-school programs will be funded.		
Step 2-7 Establish policy regarding non-formula funds; i.e., can banded funds be diverted to education from other programs if a tribe so desires?		

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BUREAU OF INDIAN AFFAIRS

ACTIONS TO BE TAKEN AND ISSUES TO BE CONSIDERED IN DEVELOPING AN IMPLEMENTATION PLAN FOR P.L. 95-561

BUREAU TASK #3	Responsible Office and Representative	Deadlines
Objective-Identify implementation steps for a direct funding mechanism to distribute and control allotments to BIA and contract schools.	Director/OIEP, Marich; Financial Management, Gorrell/Bowman	

Step 3-1 Select and obtain approval for allotment mechanism for distributing funds; address such issues as the following:

- o Who should be the allottee for funds made available to schools--the schools (or school boards), the Director, OIEP, or some other agent?
- o Should schools process accounting transactions through the current finance system or maintain their own accounting systems?

Step 3-2 Outline the characteristics of local financial plans that will be required of each local school supervisor and school board.

Step 3-3 Assess the capability under various allotment alternatives to provide responsible fiscal agents under the Anti-Deficiency Act, and to maintain proper controls and records related to alloted funds. Estimate necessary training and technical assistance in the implementation plan to develop adequate capabilities at all schools.

Step 3-4 Develop detailed tasks, time schedules, milestones, responsibilities, and critical path relationships, regarding the implementation [illegible] direct funding mechanism.

BUREAU OF INDIAN AFFAIRS

ACTIONS TO BE TAKEN AND ISSUES TO BE CONSIDERED IN DEVELOPING AN IMPLEMENTATION PLAN FOR P.L. 95-561

BUREAU TASK #4	Responsible Office and Representative	Deadlines
Objective-Resolve outstanding issues regarding JOM programs and funding.	Director/OIEP, Wade	
Step 4-1 Describe alternative mechanisms for distributing JOM funds; resolve issues such as the following: o Who will negotiate and sign JOM contracts? o Who will monitor JOM contracts?		
Step 4-2 Review comments on alternative formulas proposed as the basis for allocating JOM supplemental funds; select chosen formula.		
Step 4-3 Develop detailed tasks, time schedules, milestones, responsibilities, and critical path relationships regarding JOM.		

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BUREAU OF INDIAN AFFAIRS

ACTIONS TO BE TAKEN AND ISSUES TO BE CONSIDERED IN DEVELOPING AN IMPLEMENTATION PLAN FOR P.L. 95-561

BUREAU TASK #5	Responsible Office and Representative	Deadlines
Objective-Resolve other issues regarding funding of Indian education programs.	Director/OIEP	
Step 5-1 Contact OE to determine progress on implementation of Section 1101 of Title XI of P.L. 95-561 (impact aid); develop implementation plan for any action required by BIA.	Scott	
Step 5-2 Develop procedures for handling flow-through funds from OE and other Federal agencies.	Scott	
Step 5-3 Determine the assignment of responsibility for adult education programs and develop an implementation plan reflecting the decision.	Falling	
Step 5-4 Determine whether higher education grants and other education programs now on the band should continue on the band or be funded in some other manner. Develop an implementation plan to reflect the decisions.	Falling	

BUREAU OF INDIAN AFFAIRS

ACTIONS TO BE TAKEN AND ISSUES TO BE CONSIDERED IN DEVELOPING AN IMPLEMENTATION PLAN FOR P.L. 95-561

BUREAU TASK #6	Responsible Office and Representative	Deadlines
Objective-Prepare an implementation schedule for a management information system (MIS).	Director/OIEP, Waddell OAS/MIP, Brady	
Step 6-1 Establish requirements for the MIS including the following issues: o Will it contain all necessary data for use in allotment and JOM formulas? o What data should be included in the MIS for use in preparing annual reports? o What other data are required by law or for other reasons? o How will the data be used? o What reports are necessary? o Should the Student Enrollment System, the Higher Education Grant System, and the Exceptional Child System be incorporated into the MIS? o Is a privacy act notice required?		
Step 6-2 Identify the likely procurement schedule for MIS software and hardware and determine the lead times necessary. Coordinate with the overall ADP plans of the Bureau.		
Step 6-3 Determine the means of collecting data for the MIS initially and on a continuing basis.		
Step 6-4 Evaluate the desirability and feasibility of phasing the development of the MIS data base and report capabilities.		
Step 6-5 Develop detailed tasks, time schedules, milestones, responsibilities, and critical path relationships for development of an MIS, based on action plan approved by OAS/DAS 4/13/79 (attached).		

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BUREAU OF INDIAN AFFAIRS

ACTIONS TO BE TAKEN AND ISSUES TO BE CONSIDERED IN DEVELOPING AN IMPLEMENTATION PLAN FOR P.L. 95-561

BUREAU TASK #7	Responsible Office and Representative	Deadlines
Objective-Coordinate the development of implementation tasks with other divisions of the BIA with responsibility for education-related activities.		
Step 7-1 Establish process whereby BIA staff in other divisions and offices will identify education-related activities affected by P.L. 95-561. Such activities should include following: o Program activities, such as adult vocational education. o Administrative support activities, such as budget, finance, personnel, property management, facilities management, accounting, contracting, procurement, payroll, etc.	Director/OIEP, Marich; Commissioner/BIA, Geiogamah; Uniform Procedures Task Force (#10)	
Step 7-2 Contact Assistant Area Directors for Education to identify education personnel with expertise in administrative support procedures in each area to provide assistance in this task.		
Step 7-3 Determine how travel and personnel ceilings will be affected by organizational structure resulting from P.L. 95-561.		
Step 7-4 Develop detailed tasks, time schedules, milestones, responsibilities, and critical path relationships for the development of policies and procedures related to the activities identified in Step 7-1.	Same as Step 7-1	
Step 7-5 Coordinate development of implementation tasks and schedules for the education personnel system with the Division of Personnel Management, which will have lead responsibility.	Director/OIEP, representative to be selected; Division of Personnel Management, Fulgham	

BUREAU OF INDIAN AFFAIRS

ACTIONS TO BE TAKEN AND ISSUES TO BE CONSIDERED IN DEVELOPING AN IMPLEMENTATION PLAN FOR P.L. 95-561

BUREAU TASK #8	Responsible Office and Representative	Deadlines
Objective-Identify implementation steps regarding standards for all basic education, dormitories, and construction of school facilities.	Director/OIEP, Fosdick; FOCID, Steele; Standards Task Force (#3)	
Step 8-1 Identify need for contractor assistance in developing or implementing standards.		
Step 8-2 Review standards for consistency with Indian student rights policies and procedures regarding privacy, etc.		
Step 8-3 Identify responsibility and mechanisms for maintenance of standards in future years and for preparation of plans for bringing schools into compliance.		
Step 8-4 Review system for prioritizing school construction projects.		
Step 8-5 Develop detailed tasks, time schedules, milestones, responsibilities, and critical path relationships for development of standards.		

EDUCATION MIS PLAN

PHASE ONE:

Objective: To provide a vehicle for improving the accuracy and the integrity of the three education systems presently in operation or being implemented. These systems are the Enrollment System, the Higher Education Grant System, the Exceptional Child System.

Method: Provide funds to the areas to employ one staff member (Data Manager) whose primary functions would be that of providing technical assistance, monitoring data input, auditing data accuracy and providing MIS training to the agencies/schools within the area. The position would be directed towards an "education type" and not an "ADP type".

Actions To Be Taken:

April 20	1.	The notification of area personnel by letter including a proposed position description.
May 1	2.	Publication of POP's by area.
May 15	3.	Transfer of funds to participating areas.
July 1	4.	Personnel 'On Board' in Area Offices.
July 9-27	5.	Two week training sessions for Data Managers.
August-September	6.	Area training sessions for school personnel.

Costs Associated with Phase One:

1.	Funds for Areas - Data Managers 12 for 3 months @ 25 00/yr.	95,000
2.	Training sessions Transportation/Per Diem/Supplies	8,000
3.	Data terminals - 12 (TI Model 765)	32,000
4.	Area training session - $1500/area est.	18,000
	Phase One Total	$153,00

PHASE TWO:

Objective: To collect specific data concerning student attendance, student assessment, staff utilization, curriculum, facilities utilization, education grants and the exceptional child program for use in preparing statistical information for the annual report.

Method: As a short range effort, until an operative system is established at the local level, the Office of Indian Education Programs will collect data thru the use of data forms filled out at the agency/school level. Use will also be made of the three systems previously mentioned.

Actions To Be Taken:

May 1	1.	Approval of DP 306
	2.	Development of data elements to be used as program indicators. In conjunction with OIEP.
April-June	3.	Development and acquisition of data collection forms.
May-September	4.	Development and testing of software necessary for report formats.
April-September	5.	Acquisition of electronic equipment to support date collection effort.
August-June	6.	Data collection for 1979-1980 school year.

Costs Associated with Phase Two:

1. Forms Development 1. Student Accounting 2. Student Assessment 3. Staff Accounting 4. School Structure (Type of school/grades/school year/hours in session/etc.) 5. Higher Education Grants 6. Exceptional Child	$8,000

2.	Software development and testing (In-house)	$15,000
3.	Acquistion of electronic equipment to support data collection	90,000
4.	Data collection for 1979-1980 school year	6,000
	Phase Two Total	$119,000

PHASE THREE

Objective: To develop and implement an operational management information system for education programs which provides reliable reports to all levels of managment.

Method: Based on the functional specifications which have been developed, technical specifications will be written by a contractor. The technical specifications identify specific data elements, report format, estimated workload, storage requirements, and other required features of the system. Interested parties will indicate how their existing software will satisfy the system requirements. Their proposals will relate to the acquisition of both software and the hardware necessary to support the system. Evaluation of the proposal will be done with the assistance of education personnel from a previously selected area where the project will be used as a pilot during the 1979-1980 school year. Systems acquisition and implementation can begin as soon as the award is made. Those portions of the management information system not available through the acquisition would be developed during the academic year to be integrated into the total system.

Actions To Be Taken:

May-June	1.	Writing and approval of 306 DM.
May- June 15	2.	Writing of technical specifications under contract.
June 15 July 15	3.	Posting of RFP.
July 16 August 1	4.	Evaluation of proposals
August 1	5.	Award of contract
August- September	6.	Acquisition and installation of software on host computer.
August- September	7.	Acquisition and installation of support hardware at pilot area, agencies, and schools.
August September	8.	Training in systems use.
1979-1980 School Year	9.	Pilot of system and development of system enhancements.

Costs Associated with Phase Three:

1.	Writing of technical specifications	$60,000
2.	Acquisition of software and supporting hardware	420,000
3.	Installation of software and hardware	25,000
4.	Training in systems operation	15,000
	Phase Three Total	$520,000

CAP-10-79

Class "C" Resolution
No BIA Action Required.

RESOLUTION OF THE NAVAJO TRIBAL COUNCIL

Recommending Various Actions with Regard to the Implementation of Public Law 95-561

WHEREAS:

1. Public Law 95-561 was signed into law by the President in November, 1978; and

2. This law will cause many important changes in the education of Navajo students; and

3. Twelve National Task Forces are currently drafting the implementation of regulations and procedures to be completed by six (6) months after enactment; and

4. It is essential for the successfully implementation of the law that Indian tribes are provided with a reasonable opportunity to review and comment on such draft regulations prior to their finalization; and

5. A congressional oversight hearing will be held on April 24, in Washington, D.C.; and

6. The Education Committee of the Navajo Tribal Council is reviewing recommendations of the Public Law 95-561 Local Task Forces and wishes to have the opportunity to fully discuss and take positions on the various options in implementation of the law.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Tribal Council hereby requests a sixty-day extension of time for those sections of the law which require that regulations be established six (6) months following the signing under this act; and

2. The Navajo Tribal Council strongly requests that public hearings be scheduled in Indian country on all proposed regulations under this act.

3. The Navajo Tribal Council further requests that a Task Force be established for public input in the rule making regarding the facilities construction section of Public Law 9[illegible]-561.

4. The Navajo Tribal Council strongly requests that a school isolation factor be considered in the current proposed allotment formula. (This section is based on Education review of the formula).

5. The Navajo Tribal Council Chairman and/or the Chairman of the Navajo Tribal Education Committee are hereby authorized to carry this resolution to the congressional oversight hearing on April 24, to present to the Oversight Committee of the Congress.

6. The Navajo Tribal Council further authorizes the Education Committee of the Navajo Tribal Council to continue reviewing Federal efforts to implement the new law and to speak for the Navajo Tribe on issues when it deems appropriate. Such efforts should be made with input from all the Navajo educational entities affected and with the cooperation of the Navajo Tribal Chairman.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Tribal Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 71 in favor and 0 opposed, this 19th day of April, 1979.

Chairman
Navajo Tribal Council

MAY 14, 1979.

Mr. ALLAN LOVESEE,
Committee on Education and Labor, Cannon House Office Building,
Washington, D.C.

DEAR MR. LOVESEE: At the present time the Assistant Secretary—Indian Affairs is considering various steps and options to assure the continuing participation by Indian people in the implementation of Public Law 95-561. Some of these steps and options are:

I. TASK FORCE CONTINUATION

When the Steering Committee and Task Forces were formed by the Deputy Assistant Secretary, their primary purpose was to meet the requirements of the law up to the point of implementation. There were specific deliverables spelled out in Public Law 95-561 with designated time frames. Upon completion of their current assignments, some of the groups will disband and others will continue. Among those on-going will be the task forces for Standards, School Boards and Management Information Systems. Through this vehicle, continued input from Bureau constitutes will be accomplished.

II. CONSULTANCY PROCESS

The provision for consultation by the Bureau with Indian people is a mandate by law, the expressed policy of the present administration, and a major issue found in GAO and congressional reports. Public Law 93-638 provides the most obvious evidence that Congress recognizes the obligation of the United States to assure maximum Indian participation in the direction of educational services to Indian communities so as to render such services more responsive to the needs and desires of those communities.

Towards this end, the Bureau is undergoing contract negotiations with the National Tribal Chairmen's Association to carry out a consulting process as described by the parties concerned. This may be the first of two such contracts to be entered into by the Bureau with appropriate national Indian organizations. It is expected that Public Law 95-561 will be included in the NTCA contract.

III. OTHER AVENUES OF INPUT

Public Law 95-561 provides for a strong leadership role by the local school board in conducting the Bureau's educational program. Obviously, school boards will be maximally utilized for gathering input on education issues. Additionally, Indian education organizations will be consulted as appropriate and committees will be used when it is constructive to do so.

Another method of establishing communication with people served by the Bureau is through the periodic publication of a BIA education directory. Such a directory will help provide a sense of unity and purpose and will include names and locations of school board members and leaders, school staff, and principals, as well as agency, area, and central office education personnel. A sense of identity with such an important endeavor as the operation of a new national Indian School System will enhance communication throughout the Bureau.

The above are a few of the activities underway or planned by this office to provide for continued Indian input into the implementation of P.L. 95-561. We will keep you informed as new activities develop. Also, attached for your information is a working paper outlining the tasks and objectives for the development of an implementation plan for Public Law 95-561. The projected target date for completion of the implementation plans for the various tasks is June 1, 1979.

Sincerely,

EARL J. BARLOW,
Director, Office of Indian Education Programs.

Enclosure.

Question. Please submit a list of the members on Task Force #13.

Answer. The members of Task Force #13 are as follows:

Dr. Arthur Amiotte, Institute of American Indian Arts, Cerrillos Road, Santa Fe, New Mexico 87501

Louis T. Baker, Albuquerque Area Office, Division of Education, P.O. Box 8327, Albuquerque, New Mexico 87501.

Rosalie A. Bindell, Institute of American Indian Arts, Cerrillos Road, Santa Fe, New Mexico 87501.

Everette E. Bowman, Haskell Indian Junior College, Lawrence, Kansas 66044.

Leroy Falling, Office of Indian Education Programs, Division of Higher Education, 1951 Constitution Avenue, N.W., Washington, D.C. 20245.

Wallace Galluzi, Haskell Indian Junior College, Lawrence, Kansas 66044.
Ray P. Lightfoot, 1703 Plunkett Ct., Belen, New Mexico 87002.
Donald A. McCabe, 9169 Coors Rd., N.W., P.O. Box 10146, Albuquerque, New Mexico 87184.
Charles Poitras, Division of Higher Education, Cerrillos Road, Santa Fe, New Mexico 87501.
Frank L. Quiring, Haskell Indian Junior College, Lawrence, Kansas 66044.
Dr. Annabelle R. Rosenbluth, Southwestern Indian Polytechnic Institute, Albuqurque, New Mexico.
Seymour Tubis, Institute of American Indian Arts, Cerrillos Road, Santa Fe, New Mexico 87501.
Dr. Wayne Winterton, Institute of American Indian Arts, Cerrillos Road, Santa Fe, New Mexico 87501

U.S. Department of the Interior,
Bureau of Indian Affairs,
Washington, D.C., June 18, 1979.

Re: Task Force No. 13.

Mr. Lovesee: Mr. Poitras will forward a report to you in the near future.

Earl J. Barlow,
Director of Indian Education Programs.

U.S. Department of the Interior,
Bureau of Indian Affairs,
Albuquerque, N. Mex., June 1, 1979.

Memorandum to: Deputy Assistant Secretary—Indian Affairs (Program Operations)
Attention: Director, Office of Indian Education Programs

From: Chairman, Task Force No. 13

Subject: Task Force No. 13

With the assistance and cooperation of Chuck Poitras and Leroy Falling, Task Force No. 13 held a two and a half day meeting in Santa Fe. Those members present were: Wallace Galluzi, President, Haskell Indian Jr. College; Ray Lightfoot, Board of Regent Member, Haskell Indian Jr. College; Don McCabe, President, Southwestern Indian Polytechnic Inst.; Wayne Winterton, President (Acting), Institute of American Indian Arts; Arthur Amiotte, Board of Regent Member, Institute of American Indian Arts; Louis Baker, Steering Committee, Albuquerque Area Office; Chuck Poitras, Acting Coordinator, Central Office; Leroy Falling, Central Office Education.

The Task Force (TF), after some deliberation, concluded that an objective review of all the 12 Task Force reports would not be possible within the limited meeting schedule of the members. All of the reports were not available to Task Force No. 13. The members agreed to review thoroughly the Task Force reports that would have the greatest impact on the post-secondary institutions.

Fortunately, four final draft copies of Task Force reports that would have a significant impact on the consortium were available.

With the assistance of Mr. Poitras, we plan on providing the members of the Task Force with the first publications in the Federal Register. Each member has been assigned one or more reports to review. At the next meeting the members will prepare a written response to the Task Force reports. We will use the format suggested by Mr. Lavis.

During this first meeting of Task Force No. 13, a thorough review of the Task Force reports on Line Authority, Allotment Formula, Personnel System and Policies was completed. Several significant issues were examined by the members of the Task Force. A comprehensive list of these issues was developed. From this list the new language that is appropriate to the IHEC will be written at the next meeting on June 11, 12, and 13.

The allotment formula report has required some additional review and study before we can write a new language and modify the formula.

The Task Force is very appreciative of the opportunity to finally provide the recognition for the IHEC that is essential to the type of education programs that these institutions are capable of providing.

Carl Webb,
for Louis Baker,
Chairman, Task Force No. 13.

U.S. GOVERNMENT MEMORANDUM—MAY 10, 1979

To: Director, Office of Indian Education Programs.
From: Acting Chief, Division of Post Secondary Education.

Subject: Interim report re: Implementation of Task Force No. 13.

On May 3, Mr. Poitras was assigned the task to establish Task Force No. 13, (Post Secondary work group). The following summary describes major tasks, and key actions taken.

BACKGROUND

The following instructions regarding the purpose of the work group were communicated to Education on April 11, by Mr. Lavis. In his memorandum, the task is enunicated "an objective review to be made of *all* P.L. 95-561 draft regulations. A further requirement is added, additional tribal representatives should be a part of the group and last, the group be small for manageability."

TASK

The *first* task was to have the appointment of Mr. Louis Baker of the AAO approved as chairman. This has been accomplished. The *second* task was to line out with Mr. Baker the membership of the work group from an undated memorandum, OIEP to Mr. Lavis: "Implementation of P.L. 95-561 relative to PIA Post Secondary Institution", the following initial membership is recommended:

A. Institute of American Indian Arts

1. Dr. Wayne Winterton, Acting President
2. Dr. Arthur Amiotte, Vice President

NACCR: Chairman, Humanities and Arts Department, Standing Rock Community College, North Dakota. Sioux religious leader and medicine man.

B. Haskell Indian Junior College

1. Mr. Wallace Galluzzi, President
2. Mr. Sidney Carney, President, Board of Regents. Retired from BIA and former Area Director, Anadarko. He is a member of the Creek and Choctaw Tribes.

C. Southwestern Indian Polytechnic Institute

1. Mr. Donald McCabe, President
2. Mr. Joe Jimenez, member of the Board of Regents. Formerly employed as Education Specialist, All Indian Pueblo Council, now employed with the New Mexico Commission on Indian Affairs and is from the Nambe Pueblo.

While the memorandum of Mr. Lavis states that additional tribal representative should be included in this group, the members of the Regents, while not official officers of the Tribes, are Tribal members and active in Tribal and community affairs. Each individual also has a responsiblity as a member to inform those Tribes in their areas of the education activities each institution is engaged in.

Another factor to consider in the composition of the group is cost and the exceedingly tight time frame established to begin and finish the task. (1st meeting: May 21-23, 2nd and final meeting June 4-7.)

D. Division of Higher Education, OEIP

1. Mr. Leroy Falling, Acting Chief and advisor to the Committee.
2. Mr. Charles Poitras, Coordinator of Higher Education Programs, Steering Committee member.

E. Resource People

1. Because of cost and time factors, additional resource people will be sparingly used. Identification of need will take place during the first meeting.

F. Office of the Solicitor, Department of the Interior, Albuquerque

1. Ms. Sharon Blackwell, Staff Attorney, has been identified as a resource person to the Committee if needed. If used, there will be no cost to the CBIP.

ALLOCATION OF DOLLARS

We have been informed funds allocated for implementation of P.L. 95-561 are depleted, consequently dollars to support Task Force No. 13 must come from the Office of Indian Education Programs. In light of this, Mr. Marich was told of this situation. He advised us to proceed in convening the work committee, with dollars to support the task coming from OIEP. The budget will not exceed $6,000.00

The plan developed by Mr. Baker, Chairman, calls for two separate meeting times at the Institute of American Indian Arts in Santa Fe. The first meeting will take place May 21, 23, and the wrap up meeting is scheduled for June 4-7. The target date for completion of the task is June 11.

In context of this task, I also have assigned Mr. Poitras as a steering committee member and he will be required to attend both meetings representing this office.

To expedite the process described and to hold to the strict time frame established, your approval is needed with regard to the membership of the committee, authorization to expend money for travel, per diem, etc., and approval of Mr. Poitras to assist the work of the committee and to travel to the meetings.

LEROY FALLING.

OVERSIGHT HEARINGS ON THE IMPLEMENTATION OF INDIAN EDUCATION AMENDMENTS

FRIDAY, JUNE 15, 1979

House of Representatives,
Subcommittee on Elementary, Secondary,
and Vocational Education,
Committee on Education and Labor,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2253, Rayburn House Office Building, Hon. Dale E. Kildee presiding.

Members present: Representatives Kildee and Kogovsek.

Staff present: Alan R. Lovesee, majority counsel; Jeff McFarland, research assistant; Scherri Tucker, assistant clerk; and Jennifer Vance, minority legislative associate.

Mr. **Kildee**. The hearing will come to order. I see many of my friends out there and at least one constituent. We appreciate your presence here this morning.

This is a meeting of the Elementary, Secondary and Vocational Education Subcommittee. The hearing today will be to obtain opinions of tribal leaders, school officials, and national organizations regarding implementation of Public Law 95-561, the Indian Basic Education Act of 1978.

The concerns, opinions, and ideas of the entire Indian community went into the formulation and refinement of the proposals that became this piece of legislation. We know that the witnesses today will be vital to the committee's efforts to see that the law's intent is followed.

Before we move on to the witnesses, I would like to say something on another matter of some great interest to all of us. As you know, the transfer of the Bureau of Indian Affairs education programs to the proposed Department of Education was proposed in legislation reported from the Government Operations Committee. This concerned all of us. With one voice the Indian and native American tribes and nations across the breadth of this country opposed this effort to transfer the Bureau's Indian education responsibilities to the new Department of Education.

On Wednesday night, the matter came to a very happy conclusion. An amendment to delete this transfer, sponsored by myself and Congressman Foley, of Washington, was adopted by the whole House by a very significant margin. However, that margin, if you know the legislative process, can go one way or the other. It really depends on how you do your work. In this effort Mr. Foley and I were supported by many of our colleagues. I am reluctant to mention names because I may leave some out. However, I would mention a few. Mr. Udall, Mr. Ullman, Mr. Hinson, who may be joining us here this morning, Mr. Kogovsek, Mr. Bonior, of Michigan, Mr. Weiss, Mr. Rosenthal, of New York, and Ms. Chisholm, of New York City, and Tom Steed of Oklahoma, played a vital role in this.

These were Members of Congress who played a vital role. But the major part of this victory belongs to the tribes and nations and the entire Indian and native American community. I have served in some capacity as a legislator for over 15 years, and I have never really seen such a massive grassroots lobbying effort. It made any job easy when I went to the well of the House and tried to explain why we should leave BIA education where it is. It was the coordinated effort of the national organizations that really carried the day.

I don't want to belabor the point, but I want to say I am proud to have worked with such an effort. I really believe that advocacy is what moves the Congress, that people outside the Congress can have a tremendous influence on the Congress. I would go up to a Congressman and say, "I appreciate your support for my amendment," and he would say, "Listen, I am going to support it; I have been contacted by the Indians in my district, or my L.A. has received a lot of mail; the mail and phone calls are pouring in from the Indians. This was really a well-organized effort, and it does show that facts and truth and justice can win, and that the system can work. It is people working with that system that can make it work.

I think this was more than just a victory on this particular issue. It shows what the Indian and native Americans can do when they put on this massive effort, and I think other groups in this country will learn from what you did on blocking this transfer to the proposed Department of Education. I personally am proud of you for it. I felt really enthusiastic; it is one of the finest hours that I have experienced since I have come to the Congress. I get a great joy when I feel I was an instrument of such a cause and that the cause won.

Unfortunately, right now, two bells have rung. This is going to be a rather difficult day. I have to run over now and cast my vote in the House and come right back. It should take me hopefully 8 minutes. If you will bear with me, I will be right back, and we will have the first witnesses then.

Mr. Lovesee, whom everyone knows and who accompanied me to New Mexico and Arizona during Easter week—someday I will be as well known out there as Mr. Lovesee—but he will take care of your needs while I am gone.

Mr. LOVESEE. As long as we have a break in the proceedings, could the first group to testify please come to the witness table, and they will be ready when Congressman Kildee comes back: Mr. Tenorio, Governor Mora, Governor Martinez, and Mr. Deschampe, the representative for the Minnesota Chippewa Tribe.

Will you please come forward to the witness table and form the first panel and be prepared for questions.

[Brief recess.]

Mr. Kildee. Thank you very much for your indulgence. We have the first panel, Mr. Frank Tenorio, secretary-treasurer of the All Indian Pueblo Council, accompanied by Governor Henry Mora, of the Jemez Pueblo, and Governor Victor Martinez, Picuris Pueblo. Also, Mr. Norman Deschampe, Grand Portage Reservation, education committee member, Minnesota Chippewa Tribe, accompanied by Mr. Tom Peacock, director of the education division.

It is good to see you this morning, and you may proceed in whatever order you have decided among yourselves.

PANEL: FRANK TENORIO, SECRETARY/TREASURER, ALL INDIAN PUEBLO COUNCIL, ALBUQUERQUE, N. MEX., ACCOMPANIED BY HENRY MORA, GOVERNOR, JEMEZ PUEBLO AND VICTOR MARTINEZ, GOVERNOR, PICURIS PUEBLO; NORMAN DESCHAMPE, GRAND PORTAGE RESERVATION, EDUCATION COMMITTEE MEMBER, MINNESOTA CHIPPEWA TRIBE, ACCOMPANIED BY TOM PEACOCK, DIRECTOR, EDUCATION DIVISION

STATEMENT OF FRANK TENORIO, SECRETARY/TREASURER, ALL INDIAN PUEBLO COUNCIL, ALBUQUERQUE, N. MEX.

Mr. Tenorio. I think I will go ahead and kick this thing off. Mr. Chairman, and members of the Subcommittee on Elementary, Secondary, and Vocational Education, my name is Frank Tenorio, and I have with me Governor Mora, from Jemez Pueblo, and Governor Victor Martinez, from Picuris Pueblo.

As you know, we represent the 19 pueblos in New Mexico. We have been in support of title XI, of H.R. 15, since its introduction in the 95th Congress. We are happy that Congress has enacted legislation which mandates long overdue improvements in the Bureau of Indian Affairs educational programs and, perhaps more important, provides for the delivery of quality education to our Indian people. Our support has not been without concern—some of these concerns have been answered; others remain. We come before you today to present some of these concerns and to share with you and this committee our frustrations on a related matter which I would like to revert to toward the end.

We, as I said, have been in support of title XI of H.R. 15. In addition to mismanagement, general neglect, and indifference on the part of BIA, Indian education has generally been the victim of underfunding. We would like to more or less put an emphasis on that, because we feel that through adequate funding a lot of the deficiencies or problems would not exist. Indian education has generally been the victim of underfunding for the construction and maintenance of adequate educational facilities. While the proposed rules call for equalization of funding based on student population, we see no policy mandates for adequate maintenance and/or renovation of existing facilities. There are at present Federal and State laws which require that the BIA maintain all schools in a condition to meet appropriate State and Federal safety standards. Yet pueblo children are forced to attend antiquated facilities where condemnation is the rule more than the exception, and we feel that Congress should, along with other appropriate officials, mandate or call for reports on annual inspections so that this problem can be remedied.

Another concern which has received considerable consideration by the 19 pueblos is the role which tribal governments will play in terms of the relationship between the school board and the BIA. While the proposed rules state that the school board will be appointed by the tribal councils, the funding negotiations and communications will go directly to the school board. We strongly feel that the role of tribal councils or tribal governments must be protected and strengthened, or else we will have a situation where the tail wags the dog; I mean, where you have the funding going directly to the school boards, and in certain situations there exists more or less a takeover by the school boards which more or less makes the tribal government more adhering to what the school board says instead of vice versa.

The proposed funding formula does not provide any consideration for the physical location or layout of a facility as one of the factors in determining entitlement. We strongly feel that personnel, security, and other needs, are dictated by the physical location and layout of a facility and should be given due consideration in the funding formula. For instance, most BIA facilities on Pueblo reservations were built in the 1890's or at the turn of the century and do not compare favorably with well planned, coordinated facilities which were planned and constructed within the past 15 years.

The funding formula also neglects any consideration or provision for startup costs for new contract schools. We strongly feel that when a tribe, through Public Law 93-638, contracts for the administration and operation of a BIA educational facility, startup costs should be allowed these tribal governments, not only as an incentive, but to keep in line with the intent and spirit of the Self-Determination Act.

The overriding concern of the All Indian Pueblo Council governors and pueblo communities in implementing this new piece of legislation is the apparent neglect or oversight by the Bureau in regard to the spirit and function of contract schools under the Self-Determination Act, which is basically community controlled. In reviewing the rules and regulations of this new law, Public Law 95-561, it becomes quite apparent that there are numerous new restrictions which interfere with local prerogatives regarding the decisionmaking process; for example: The Director of BIA education determines the number of school board members; the BIA Director sets standards for school instruction; the BIA Director has authority to reverse school board decisions in regard to personnel actions; the payment of compensation to educators is scheduled in the regulations in a method contrary to existing AIPC policies and procedures.

These restrictions will restrict the day-to-day operations of the school program and thereby undermine the legislative intent to raise standards for all schools. We, therefore, feel that the track record of our school regarding the establishment of standards has been proven and that the BIA should not interfere or hamper with our efforts through unnecessary restrictive rules and regulations. Our recommendation is that contract schools be contacted and that language be drafted which reflects the intent of Public Law 93-638, in terms of local decisionmaking and local control.

Lastly, despite much time and effort by the Congress, the Indian people, and others, to establish a mechanism for bringing about constructive and positive changes in BIA education programs through maximum Indian participation, we are still subjected to efforts which call for separating the educational responsibilities of the BIA into the proposed Department of Education. Of course, that is moot now, so I won't go into that.

We want to point out again that where title XI of H.R. 15 is concerned, I think this is the last chance for the Indian people and BIA to put their act together in the field of Indian education. As far as we are concerned, the pueblo leadership has resolved to do what we can to make this become a reality, and, like I said before, one thing that will make this effort meaningful is to get adequate funding, because, as you know, without funding, we can't move.

This is more or less the extent of my comments on the title XI of H.R. 15, but another problem that I would like to tell you about is something that you know about, Mr. Congressman. You were out in our area just a few weeks ago, and you saw firsthand the conditions of the Albuquerque Indian School.

We are beginning our third year of the contract, although we have not yet contracted. There is a stalemate there, as you probably are aware. We certainly would like to be given a chance to go into the third year, but this third year calls for alternatives. As you know, the Indian school is definitely condemned by three or four different studies or investigations, and the facilities there are dangerous to our children, but the responsibility of carrying the educational program forward is here with us along with BIA. We have in our own backyard a facility, a 200-acre facility, which houses the Institute of American Indian Arts. It is no secret that the things that were going on up there are in the spotlight to an extent that something has to be done about the mismanagement and underutilization of that particular plant.

What we would like to do is to move our school from Albuquerque Indian School to that facility, which was originally the pueblo's in the first place, to put into force our successes that we experienced at AIS and to perpetuate it at a facility in Santa Fe. We are not against art in any way. I guess it is common knowledge that the pueblo people are living examples of what Indian culture and tradition is, and what Indian art is, because we practice it. We need no institutions to teach us our culture or our art. We perpetuate it in our daily lifestyles. But we need a chance to be competitive in this contemporary world of ours. We need a place where we can give the basics to our students that are going to high school, so they will be able to compete in this life, and certainly the facilities up in Santa Fe will offer us that sort of foundation.

We certainly would like for this committee to use its influence in convincing Mr. Yates to make that decision to permit us to have that school up there. Without question, there have been many words written about it, and part and parcel to this testimony we have some of our thoughts on this particular request in regard to IAIA. We have also included in the packet the report of the Office of Inspector General. Anybody that cannot see the message here, I don't know. This spells definitely what dilemma that institution is in up there, and certainly by us taking over the facilities up there, it will be put to good use. This is what we are pleading with you to use your influence in letting the pueblo children have the Santa Fe facilities so we can prolong our successful education endeavors that we lead the record for in Albuquerque.

That is the extent of my presentation. Any questions we certainly will answer.

Mr. KILDEE. Thank you.

I certainly concur that your facilities at Albuquerque are not up to standard, even close to standard, and I want to go on record indicating that, because it would be a terrible thing if a tragedy were to take place there. Just the day-by-day operation creates enough problems because of the inadequate facilities, but there is potential for a tragedy there, and I will continue to work closely with you to try to remedy that situation.

Mr. TENORIO. We appreciate that.

Mr. KILDEE. Your entire testimony will be made part of the record, as will be the case with the rest of you also; so if you wish to summarize, you may do that, and your written testimony will be made a part of the official record of the hearing then.

[Mr. Tenorio's complete statement follows:]

ALL INDIAN PUEBLO COUNCIL

TESTIMONY OF
FRANK TENORIO, SECRETARY/TREASURER
BEFORE THE
SUBCOMMITTEE ON ELEMENTARY/SECONDARY & VOCATIONAL EDUCATION
JUNE 15, 1979

Mr. Chairman and members of the Subcommittee on Elementary/Secondary and Vocational Education, my name is Frank Tenorio. I am the Secretary/Treasurer for the All Indian Pueblo Council (AIPC) comprised of the nineteen (19) New Mexico Pueblo reservations. Accompanying me today are Governor Henry Mora of Jemez Pueblo, and Governor Victor Martinez of Picuris Pueblo.

The nineteen Pueblos have been in support of Title II, H.R. 15, since its introduction in the 95th Congress. We are happy that the Congress, after much deliberation enacted legislation which mandates long overdue improvements in the Bureau of Indian Affairs (BIA) educational programs and perhaps more important, provides for the delivery of quality education to our Indian children. Our support has not been without concern--some of these concerns have been answered, others remain. We come before you today to present some of these concerns and to share with you and this Committee our frustrations on a related matter which could very well spell disaster for what has been a very successful effort at self-determination in Pueblo Indian education by the nineteen Pueblo Governors. First our comments on Title 11, H.R. 15.

In addition to mismanagement, general neglect and indifference on the part of the BIA, Indian education has generally been the victim of under-funding for the construction and maintenance of adequate educational facilities. While the proposed rules call for equalization of funding based on student population, we see no policy mandates for adequate maintenance and/or renovation of existing facilities. There are at present federal and state laws which requires that the BIA maintain all schools in a condition to meet appropriate state and federal safety standards, yet Pueblo children are forced to attend schools and facilities which have long been condemned as unsafe for use as educational facilities. We ask that as part of these proposed rules an annual inspection be required of all BIA facilities and that such a report be provided to the tribes, the Congress, and other appropriate officials each year for immediate action within a specified time limit.

Another concern which has received considerable consideration by the nineteen Pueblos is the role which tribal governments will play in terms of the relationship between the school board and the central office (BIA). While the proposed rules state that the school board will be appointed by the tribal councils, the funding negotiations and communications will go directly to the school board. We strongly feel that the role of tribal councils or tribal governments must be protected and strengthened. Let the rules clearly state that the school boards are subordinate to the tribal governments, and not vice-versa. We recommend that this language be clarified accordingly.

The proposed funding formula does not provide any consideration for the fiscal location or layout of a facility as one of the factors in determining entitlement. We strongly feel that personnel, security, and other needs, are dictated by the physical location and layout of a facility and should be given due consideration in the funding formula. For instance, most BIA facilities on Pueblo reservations were built in the 1890's or at the turn of the century and do not compare favorably with well planned, coordinated facilities which were planned and constructed within the past fifteen years.

The funding formula also neglects any consideration or provision for start-up costs for new contract schools. We strongly feel that when a tribe, through P.L. 93-638, contracts for the administration and operation of a BIA educational facility start-up costs should be allowed these tribal governments, not only as an incentive, but to keep in line with the intent and spirit of P.L. 93-638. The overriding concern of the All Indian Pueblo Council Governors and Pueblo communities in implementing this new piece of legislation is the apparent neglect or oversight by the Bureau in regard to the spirit and function of contract schools under P.L. 93-638 which is basically community controlled. In reviewing the rules and regulations of this new law, P.L. 95-

561, it becomes quite apparent that there are numerous new restrictions which interfere with local prerogative regarding the decision making process, for example:

1. The director of BIA education determines the number of school board members;
2. The BIA director sets standards for school instruction;
3. The BIA director has authority to reverse school board decisions in regard to personnel actions;
4. The payment of compensation to educators is scheduled in the regulations in a method contrary to existing AIPC Policies and Procedures.

These restrictions will restrict the day-to-day operations of the school program and thereby undermine the legislative intent to raise standards for all schools. We, therefore, feel that the track record of our school regarding the establishment of standards has been proven and that the BIA should not interfere or hamper with our efforts through unnecessary restrictive rules and regulations. Our recommendation is that contract schools be contacted and that language be drafted which reflects the intent of P.L. 93-638, in terms of local decision making and local control.

Lastly, despite much time and effort by the Congress, the Indian people, and others, to establish a mechanism for bringing about constructive and positive changes in BIA education programs through maximum Indian participation, we are still subjected to efforts which call for separating the educational responsibilities of the BIA into the proposed Department of Education. Mr. Chairman, we bring this concern to you to point out that the Pueblo leadership strongly considers Title 11 of H.R. 15, as the last chance for BIA and the Indian people to get their act together in the field of Indian education. The Pueblo leadership has resolved that to this end we will do our utmost, we only ask that you as members of this distinguished body defeat any effort to separate education in BIA to any other Department, and support us through adequate funding. We cannot succeed without this type of support.

Mr. Chairman, this concludes my statement on H.R. 15, I would now like to briefly bring to the attention of this Committee a problem which faces approximately 350 Pueblo, Navajo, and Apache children who attend the Albuquerque Indian School (AIS) located in Albuquerque, New Mexico.

Perhaps the best evidence of our dilemma is expressed in the following documents which I would like to introduce as part of this record. Mr. Chairman, in summary, two years ago the nineteen Pueblos executed the first P.L. 93-638 school contract in the nation for the operation and administration of the Albuquerque Indian School. At the time of this contract, the Albuquerque Indian School was often referred to as the worst school in the BIA system. In two years we have begun to turn the Albuquerque Indian School into a first rate academic institution only to find that due to inadequate funding and maintenance the Albuquerque Indian School campus is approximately 80% condemned and has been declared a safety and health hazard to our students and faculty. We are now faced with the prospect of retrocession and closing of the Albuquerque Indian School due to the unsafe conditions of our campus.

In the meantime, a short 60 miles away, the BIA runs an art school for 130 students in a facility which was built to accomodate from 550-600 students. This facility located in Santa Fe, New Mexico, was built as a primary educational facility for Pueblos, Navajos, Apache, and Ute children in the 1890's. In 1962, as part of the BIA's effort to force Indian children into the public school system, our school at Santa Fe was arbitrarily taken from us and turned into a national Indian art institute. Today, after 17 years of existence, the art program in Santa Fe remains unaccredited and is plagued by mismanagement, fiscal irresponsibility, low morale, and an annual per pupil cost in excess of $13,000 per student and other problems too numerous to mention here. We have recommended that this art program be transferred to an estabilished and accredited BIA junior college located in Lawrence, Kansas, or that IAIA be abolished as an unsuccessful overly expensive experiment, allowing us the use of the IAIA facilities for the education of approximately 500 Pueblo, Navajo, and Apache school children in grades 7-12. We ask this Committee to direct Mr. Forrest Gerard, Assistant Secretary for Indian Affairs, to make such a transfer. The audit report which was recently completed by the Office of Inspector General verifies the conditions we have presented to you here today and concludes that the national Indian art program located at the Santa Fe facility cannot be justified, economically or otherwise.

May 30, 1979

Dear Tribal Leaders:

The nineteen (19) Pueblo Governors and the All Indian Pueblo Council consider Haskell Institute an excellent and important educational facility for the Indian people of this country. Many of our past and present leaders in the Pueblo communities have received valuable education and training at Haskell. As an organization and as individual tribes, we have always been ready to assist Haskell to grow and continue to provide educational opportunities for our children. It is in this spirit of respect and support for Haskell that I write to you seeking your support and understanding regarding a matter which may be of some interest to you.

Many of you may be aware of the fact that the Institute of American Indian Arts (IAIA) located at Santa Fe, New Mexico, was built in the 1890's as the prime educational facility for Navajo, Pueblo, and Apache youths. Like Haskell, the Santa Fe facility served as a valuable and primary source of education for the area tribes until 1962, when what was known as Santa Fe Indian School was taken from the Pueblos and other tribes without their consent or approval and turned into a national art school. This closing of the Santa Fe School was also part of the Bureau of Indian Affair's (BIA) effort to force our children into the public school system.

The Pueblo Governors in 1962, and today, strongly feel that the art program in Santa Fe would benefit only an elite few. Today, 17 years after the initiation of the art program in Santa Fe, we find not only student enrollment so low that the present pupil cost exceeds $13,000 per student, but also; mismanagement, fiscal irresponsibility, student disciplinary problems, sub-zero morale, etc. We are not against a national art program, for if anyone has an appreciation for the arts and culture it is the Pueblo people. We are, however, against the waste and mismanagement and under-utilization of facilities which exists in Santa Fe while Pueblo, Navajo, and Apache children are housed and educated in condemned, unsafe, and unsanitary facilities at the Albuquerque Indian School (AIS) campus. In a facility which accomodated 650 students, the Santa Fe campus now has less than 140 students, of which 12 are high school students and the remainder are enrolled in the art program. The art institute is not accredited, and it is our understanding that course work done at IAIA are not transferable to other accredited junior colleges. Therefore, we have suggested that for the benefit of all those concerned, the arts program at Santa Fe be transferred to an accredited junior college such as

Haskell. We strongly feel that only there can a national art program be properly developed and implemented.

In early March, members of our staff made [illegible] recommendation and presentation to the Haskell Board of Regents, it is our understanding that the Regents were very receptive. We also suggested that perhaps some of the vocational programs at Haskell might be transferrable to the Southwestern Indian Polytechnic Institute (SIPI) located in Albuquerque, New Mexico, as that facility which was designed for 500-600 students presently accomodates only approximately 350 students.

The Pueblo Governors have given much study and research to these recommendations and we are convinced that there is no logical alternative for the Santa Fe school. The deplorable conditions have been verified by an audit which was recently completed by the U.S. Office of Inspector General. We have brought these concerns and recommendations to the attention of Mr. Forrest Gerard, Assistant Secretary of Interior for Indian Affairs, and Mr. Earl Barlow, Director of Education, and others, for the past five months. As of this writing we are unable to get a definate decision on our recommendations from any of these individuals.

On behalf of the nineteen Pueblo Governors, we ask for your support by writing to Mr. Gerard and Mr. Barlow and request that the art program in Santa Fe be transferred to the accredited junior college at Haskell, and allow the Santa Fe facility to be properly utilized for the education and training of Pueblos, Navajos, and Apache children. You may write Mr. Gerard and Mr. Barlow at the addresses below. Also, please send a copy of your letters to Congressman Sidney Yates at the address below.

Thank you for your support and understanding.

Sincerely,

ALL INDIAN PUEBLO COUNCIL

Delfin J. Lovato

Delfin J. Lovato
Chairman

DJL/mlz

Mr. Forrest Gerard, Asst. Sec.
Bureau of Indian Affairs
1951 Constitution Avenue, N.W.
Washington, D.C. 20240

Honorable Sidney Yates
U.S. Congressman
2234 Rayburn Office Bldg.
Washington, D.C. 20515

Mr. Earl Barlow, Director
Office of Education
Mailing Code #500
1951 Constitution Ave., N.W.
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C-IA-IA-10-79

UNITED STATES
DEPARTMENT OF THE INTERIOR

OFFICE OF INSPECTOR GENERAL

REVIEW OF OPERATIONS
INSTITUTE OF AMERICAN INDIAN ARTS
SANTA FE, NEW MEXICO

BUREAU OF INDIAN AFFAIRS

INTRODUCTION AND SUMMARY

The Office of Inspector General has completed a review of the operation of the Institute of American Indian Arts (IAIA), Santa Fe, New Mexico. The objective of our review were to assist the overall operational performance and to specifically identify the underlying causes of the education budget overrun.

The IAIA is one of three Bureau of Indian Affairs (BIA) post secondary schools, the others being Haskell Indian Junior College (HIJC) and the Southwestern Indian Polytechnic Institute (SIPI). The IAIA is seeking accreditation as a junior college offering the Associate of Fine Arts degree. At the time of our review, it was in a stage of transition from a school offering both high school and college programs to a junior college seeking accreditation.

Administratively, IAIA has been in "transition" since its inception in 1960. From 1960 to 1966, it reported to the Navajo Area Office for policy and administrative direction. When the Albuquerque Area Office (AAO) was created in 1966, operational responsibility for the IAIA was transferred to that office. In 1967, the IAIA was transferred to the Division of Education, Branch of School management, Washington, D.C.. In July 1973, the IAIA was once again transferred back to the AAO. On October 25, 1977, the IAIA was transferred back to the Office of Indian Education Programs, Washington, D.C. as a part of a consortium which included SIPI and HIJC; however, the AAO retained administrative "housekeeping" functions with no line authority.

Administrative controls at IAIA were not functioning properly, if at all. The Central Office did not provide adequate services or management to correct such basic problems. Because of the bad and deteriorating situation, operational authority was again delegated to the AAO. During the period of our site audit work, the actions taken or being taken by the AAO to originate some degree of management and control at IAIA include:

- detailing of facility manager, administrative manager, and administrative project director to perform (as opposed to assist) duties at IAIA.
- Furnishing management analyst, budget analyst, and education specilaist to provide assistantance on occasions.
- detailing of a three-men team to make a physical inventory of accountable property.

By memorandum dated February 9, 1979, IAIA submitted a preliminary proposal for reorganization. The major impact of the proposed reorganization would be a considerable reduction in staffing. The goals and objectives of the school would continue to be those of an accredited junior college (candidate) offering an Associate of Fine Arts degree. The All Indian Pueblo Council, Inc. (AIPC) has submitted a proposal to contract for the IAIA functions by July 1979. Under this proposal, a high school program would be brought back to IAIA. The two proposals (reorganization and AIPC's proposal to contract) are, of course, mutually exclusive. The status of each proposal was uncertain at the time of our review.

Our audit disclosed significant waste and inefficiency in school operations. Over staffing of faculty was a major problem with many instructors carrying light loads consisting of few classes with few students in each. There was a need for a comprehensive plan for the management of faculty resources. The plan should provide for analyses of student-teacher raties, class site records, teacher load schedules and class frequency charts.

IAIA operates on the quarter ("block") system. It is open 8 blocks per year and is not in session during the summer. A significant portion of the high costs of operating the school is incurred for salaries and utilities during the period when the school is closed. Adequate steps to mitigate the costs of excess facilities (year-round) are not being taken.

Assistance monies (student aid funds) are provided by various agencies to students for the purposes of assistance students living off campus and for stipends for personal and miscelleneous expenses. The IAIA has the responsibility of providing adequate safekeeping distribution and accounting for these funds. That responsibility is not being met. Records are inaccurate and incomplete. No controls exist to ensure the funds are actually provided to the students or that students do not receive funds in excess of the approved grants.

The student bank, established to provide banking services for students and student organizations and for handling the student aid funds, has never functioned properly and has almost ceased to function at all.

Records were not maintained of activity and balances of either the various student fund accounts or of the account with the commercial bank. No control whatever existed over these funds. Imprest and other cash funds also were not properly administered.

An effective system of controls was not being exercised over property and property acquisition procedures. Accurate inventory records were not kept, physical security was lacking, and unneeded property was acquired and retained.

As discussed with the AAO Area Director and the Acting President of IAIA, the problems described in this report were not by any means a complete description of all problems at IAIA. Rather, these problems are representative of the circumstances that exist at IAIA; the actions necessary to correct these problems will necessarily result in improvements in other areas as well. The various problems together resulted in, among other things, budget overruns, such as that for the fiscal year 1973 education program discussed on page 28 of this report.

FINDINGS AND RECOMMENDATIONS

CONTROL OVER WASTE AND INEFFICIENCY IN SCHOOL OPERATIONS

High per student cost is a BIA-wide problem, especially for boarding schools. The costs per student at IAIA are among the highest of all the BIA schools. Cost studies and audits done by or by BIA have disclosed that school costs in general and IAIA costs in [illegible] were high and getting higher. Per pupil costs at IAIA disclosed in a prior study were:

1974	1975	1976	1977
$7,410	$12,087	$10,693	$13,096

For comparison, the same study showed the 1977 per pupil costs for the other two BIA post-secondary schools to be $7,603 and $6,219.

Fixed costs constitute an important part of the total costs at IAIA; accordingly, per student costs vary significantly with changes in enrollment. Enrollment statistics for the last five years are:

School Year	High School	College	Total
1974-75	96	161	257
1975-76	118	204	322
1976-77	104	219	323
1977-78	97	214	311
1978-79	29	127	156

Because of the current unsettled status of the institute as well as the reasons IAIA officials cite for the low '78-79 enrollment (e.g. lack of recruiting effort), it seems probable that the enrollment will continue to decline. Per student costs were at a level already unacceptable by most standards prior to the 50 percent decline in enrollment for the current school year. Enrollment has dropped to 140 by the time we finished our fieldwork. The IAIA had 130 authorized positions at that time. If the enrollment decline is not reversed, the school is not economically feasible regardless of what improvements in operation might be made.

The primary problems resulting in the high operating costs are overstaffing of teachers, unneeded summer employment, and excess and improper management of facilities. These matters are discussed separately on the pages that follow.

Overstaffing of Faculty

Our review showed that many instructors have been carrying light loads consisting of few classes with few students in each. Some classes are continuously offered although these same classes continually attract very few students. Instructors are employed on a full-time, 12 month basis, but their services are needed only on a part-time, 9-month basis. These problems have existed for some time but will be significantly aggravated by the current smaller and apparently decreasing enrollment.

There are a variety of accepted methods to measure the efficiency of faculty management at a college. Examples include analyses of student teacher ratios, class size records, teacher load schedules, and class frequency charts. The officials at IAIA agreed that these analyses all should be used, but acknowledged that the tools had not been used at IAIA. In fact, IAIA has not had any comprehensive plan for the management of faculty resources.

The IAIA has no established standards for teacher load or class size. When we asked IAIA officials what the teacher load should be, the usual answer was (a) 15 (or more) credit hours, or (b) about 22 contact hours for studio teachers and 15 contact hours for other teachers. When asked what were the minimum, ideal, and maximum class sizes, the teachers and department heads gave varying estimates but agreed that:

1. The limiting factor was classroom space or other facilities, such as work tables, easels, etc.
2. The maximum class site was about 13 to 20 for most studios (depending on 1 above) and larger for other classes.
3. A selected for advanced studios should be limited to less than 10 students.
4. The ideal size is anything less than the maximum except that the head of the performing arts department felt that the performing arts classes (i.e., the studios) should not be smaller than 12 students. He regrets that these classes for the most part are smaller than that. (For block I of 1978-79, the average size was 7; only 3 of the 23 studios had 12 or more students).

Our analyses of the actual class sites and actual teacher loads show that these resources are significantly underutilized.

Class Size - The table below shows the number of classes taught, categorized by size of class, for each block for school year 1976-77, 1977-78, and the first block of 1978-79. A "block" is equivalent to a quarter. There are three blocks per school year; IAIA is not in session in summer. The first line of the table shows that for that block, there were 67 classes, of which 16 had 5 or less students, 17 had 6 to 9 students, and 34 classes had 10 or more students. Note that the period covered started 2 years before the enrollment decline occurred.

	Number of Classes			
School Year	Total	1-5 Students	6-9 Students	10 or more Students
1976-77				
Block I	67	16	17	34
Block II	62	9	13	40
Block III	69	14	14	41
1977-78				
Block I	72	12	13	47
Block II	72	19	17	36
Block III	76	26	11	39
1978-79				
Block I	77	24	24	29

Several of the classes had only one student and many had 2 or 3 students. Types of classes with low enrollment included English, language arts, various writing courses, math skills, various business related courses. PE courses, sociology, cultural anthrosology, typing, drawing, and most of the studio courses. For Block I of the 1978-79 school year, 23 of the 28 studios had less than 10 students. Officials have stated that a studio class should not have more than 18 to 20 students. Actually most of the studio instructors do not have 10 students in all their classes combined. And, except for art history and Indian cultural studies, the average size of other classes is not much, if any, larger than the studio class size. The number of very small classes creates the impression that IAIA is as much a meeting place for tutors as it is a "usual college". Ultimately, the BIA will have to face up to the question of whether the bureau can afford to operate a school requiring such a variety of classes for so few students.

Teacher Load - There are no established standards at IAIA showing what a teacher load should be. Based on discussions with IAIA officials, a reasonable estimate of acceptable teacher lead would be about 15 credit hours. Obviously, IAIA should establish and enforce standards tailored to its special circumstances. Such standards would vary according to type of courses involved (classroom, studios, etc.). In the meantime, measuring against the rather arbitrary standard of 15 credit hours shows universal underutilization of teachers. Not one teacher at IAIA consistently carried 15 credit hours during the 7-block period reviewed. The highest average load was 12.5 credit hours (Art History instructor); the only other instructor averaging more than 10 credit hours (11.9) per block taught mathematics, typing, journalism and business courses. The latter instructor taught a total of 29 classes with a combined total of 213 students (7.5 per class) over the 7-block period. For 1978-79 block I, only 4 teachers carried more than 10 credit hours.

What this means in dollars and cents is, for example, the BIA incurred salary costs of $17,075 in FY '78 for an employee to teach 7 classes (2 in Block I, 2 in Block II, and 3 in Block III) for the benefit of 20 students (4 in Block I, 4 in Block II, and 7 in Block III -- 2 students in each of 6 of the 7 classes, 3 students in the seventh. Other examples are:

Salary Costs Incurred	Number of Classes		
	Block I	Block II	Block III
$19,457	2	2	2
23,319	2	2	2
20,150	4	3	2
11,022	2	0	1
19,602	2	2	2
21,451	1	2	1

The IAIA Vice President stated that teachers which do not have any assigned classes during a particular block are still carried full-time. He further stated that he would assign them administrative duties only up to 25 percent of their time. The department heads are responsible for any underutilized time. When asked what happens to a teacher who does not have a full teaching schedule, the head of the liberal arts department said simply that he wished he knew--that he did not have enough work to keep them busy.

This results are budget overruns and excessively high faculty costs.

Summer Employemnt

IAIA operates on the quarter (block) sytem. It is open 3 block per year and is not in session during the summer. A significant portion of the high costs of operating the school are incurred for salaries and utilities during the time when the school is closed. Most of the IAIA employees are employed 12 months a year. The decision to use full-time permanent positions at IAIA was made by previous officials. Current officials agreed that most of the positions should be less than full-time permanent. No one at IAIA has been willing to take the painful steps necessary to correct the problem -- at least not until the funding restrictions of the 1980 budget left the officials little choice but to take at least some action. That action (proposed reorganization) is discussed on page 2.

We found that even employees currently in furlough positions are employed for longer periods than necessary. These employees generally are furloughed for only one or two pay periods a year.

To gain insight into the magnitude of the summer employment problem, we scheduled salary costs for June and July 1978. Graduation for the 1977-78 school year took place on May 26, 1978 and the dormitories opened for the 1978-79 school year on August 19, 1978.

Department/Program	June-July, 1978 Salary Costs	Total Salary	Salary Budget
Direct instruction	$107,700	$ 639,600	$ 612,400
Library	6,400	37,900	40,900
Home Living	57,000	388,400	181,300
Student activities	12,100	78,500	79,800
General operations and other	46,400	264,200	207,100
	229,600	$1,408,600	$1,121,600

More than 16 percent of the annual salaries of $1.4 million were incurred while the school was not in session. The $229,600 (16 percent) obviously is understated by an undetermined amount because the dormitories did not open until August 19 and classes did not begin until August 23. We did not accept to determine the amount of excess utilities related to keeping the facilities open when school was not in session.

The important conculusion to be drawn is not of precisely how many dollars were spent over that necessary (or that budgeted), but rather is that no reasonable attempt has been made to operate the school in an economical manner.

Excess Facilities

The IAIA is located on about 200 acres and includes more that 350,000 square feet of facilities. Included in the facilities are (a) two gymnasiums (32,000 square feet) and (b) four dormitories (100,000 square feet) designed to accomodate 275 students. There were 104 students living on campus as of February 22, 1979. The current total enrollment of 140 is down from a high of more tha 320 in 1976-77.

Underutilized facilities was an unavoidable result of the low enrollment. Adequate steps to reduce costs, however, were not being taken. One of the larger dormitories was closed, but the entire building (35,665 square fee) was still being heated in order to use one small room as a classroom. The number of students living on campus at the time of our review could have been housed in two dormitories rather than three.

Recommendations

The BIA obviously faces some difficult alternatives regarding IAIA. As it is being run now, the IAIA is simply not economically feasible. Therefore, the BIA should consider alternatives regarding the nature and necessity of the school. Should the high school program be reinstated? Should the school be contracted? Should the arts program be incorporated into the SIPI or HIJC programs? Or should the school simply be closed?

Regarding any attempt to establish a cost effective education program at IAIA, we recommend that BIA:

1. Take action to convert all positions to a less than permanent full-time basis (e.g., furlough or temporary). Exceptions, if any, should be individually justified and approved by the BIA Central Office.
2. Stop the practice of providing employment during periods when the school and dormitories are closed (except for about one week after closing in spring and before opening in fall).
3. Establish faculty resource planning procedures. These should include procedures to:
    a. prepare and monitor teacher load schedules to ensure that no one is paid a full-time salary for less than full-time work;
    b. maintain class frequency and enrollment charts to ensure there is a demand for a class at the time it is offered;
    c. determine the appropriate student-teacher ratio for IAIA classes -- class sizes should be measured against the ratio during registration; those classes not reaching the desired enrollment should be cancelled and the student or students involved should be rescheduled.
4. Establish procedures to ensure that facilities costs are kept at a minimum.

Mr. KILDEE. Do I understand you are speaking for Governor Mora and Governor Martinez, and all will be prepared to respond to questions?

Mr. TENORIO. Yes, sir.

Mr. KILDEE. Thank you very much.

In your statement you mentioned that the proposed formula does not consider the physical layout or location of the schools. Could you expand on this? Is such a factor to be a function of the age of the school or the design of the school, or a combination of design and age?

Mr. TENORIO. Combination of design and age, I would say. Right now, we are looking at some facilities that are archaic and facilities that continually are more or less renovated, but I think the age restricts the amount of renovation you can do to a facility; so we feel that while all the pueblo schools that were more or less built around the turn of the century are pretty well targets, so to say, they need new life.

Mr. KILDEE. Could you indicate to the committee for the record, in addition to the obviously ancient age of the school, some of the design problems. For instance, the inaccessibility or the problems with the students getting from one part of the school or the arrangements within the school building there.

Mr. TENORIO. As far as Albuquerque Indian School is concerned, I trust that you have seen the facilities there, that are more or less this module type and mobile type facilities that are definitely temporary in nature. Some of those buildings there were acquired, say, 15 years ago, to last only about 10 years, and are still in use. Even with those structures, they are certainly antiquated, also.

I am not saying anything about some of those buildings that have been there since the 1890's and on toward 1912. That is about the era of time that those schools were built, and certainly at the outset the designs were more or less pueblo basically. But there is no plan as to what was replaced. It is just helter-skelter sort of approach to designing the schools.

Mr. KILDEE. We have with us this morning also Congressman Kogovsek, who, as you know, played a very key role in our success Wednesday night.

Congressman, do you have any questions?

Mr. KOGOVSEK. Just in regard, Mr. Tenorio--in your testimony you indicated that the BIA Director has authority to reverse school board decisions on personnel matters. Does that happen very often?

Mr. TENORIO. It doesn't happen very often, but it does happen. Heretofore, school boards were more or less advisory in concept. You know when you have that situation, it is just a token sort of decisionmaking, more so than being an outright school board. We have that operation—the Pueblo San Felipe. The only reason why we succeed in mandating the decisions of the school board is because the principal is an Indian, and he understands us. I think that is an answer, in a way.

Mr. KOGOVSEK. Thank you.

Mr. KILDEE. Mr. Tenorio, out of what division, and at what administrative level, do you feel that education contracting should be handled?

Mr. **Tenorio**. The closer it happens on the local level, the better, because that is where the exchange of communication is more real. When you go up into the upper strata of government, there isn't that close exchange unless that can happen, you know, but heretofore the agency people have been very, very helpful in regard to understanding—what I am saying is more of the decisionmaking should be handled at a level even with the agency.

Mr. **Kildee**. Do you feel it should be handled by the education division or out of the trust responsibility?

Mr. **Tenorio**. In this case, I think educational-related activities should remain with education.

Mr. **Kildee**. Mr. Lovesee, do you have any followup questions?

Mr. **Lovesee**. No, sir.

Mr. **Kildee**. Mr. Tenorio, how would you propose to factor into the funding formula, startup costs? Would you vary the factor according to the type of contract school; for example, a new school versus a previously Bureau school, or previously private contract school? Do you have any ideas on a formula for startup costs?

Mr. **Tenorio**. As far as a formula is concerned, heretofore we have no such thing in existence. We have to beg, borrow and steal. I think as far as startup cost is concerned, that is definitely necessary, necessary like in the case of Albuquerque, I mean, although the school has been ongoing, the things that we want to implement, we did not have the money for. Regardless of what source it comes from, that is a necessary thing that we have to have.

Mr. **Kildee**. In your reading of the proposed regulations, do you read that the Director of Indian Education Programs can impose standards on contract schools?

Mr. **Tenorio**. Yes, that is the way it seems; yes, sir.

Mr. **Kildee**. Mr. Lovesee, would you like to comment on that? He is the counsel. I wanted to ask that question to see whether there is any ambiguity in the legislation or anything unclear, so I appreciate your response, and I want to get this in the record. Mr. Lovesee?

Mr. **Lovesee**. I believe if there is anything in the regulations, and I would agree there are some ambiguities there that could be read either way, that the final regulation should resolve them. The mandating sections 1121 (d) and (e) preclude, at least from the standpoint of the intent of the law as drafted, the Director of the Office of Indian Education Programs from imposing any standards on any contract school. Part of the major reason for Public Law 93-638 and the contracting thrust was to take schools out from under impositions made by the Bureau. To reestablish that in this act would be a step backward and totally inconsistent with the policy of the measure.

So I agree with you that any ambiguity in the regulations as proposed will have to be cleared up in the final draft.

Mr. **Kildee**. I wanted to ask that, because we felt there are some ambiguities in regulations and apparently that is also your reading of them.

Do you feel, Mr. Tenorio, that the proposed regulations published so far adequately address both bureau and contract school situations and, if not—and I suspect that is the case—in what way are they left lacking? What improvements would you suggest in those proposed regulations published thus far, keeping in mind, of course, the necessity of trying to implement this in a timely fashion.

Mr. **Tenorio**. One of the basic concerns as far as the Pueblo people are concerned, is that our ability to move educationally where it has the children in mind, we are going two roads, so to speak. We are definitely culturally, traditionally motivated, and at the same time we want those tools that will make him the kind of a citizen that will make his way in this land of ours; so if the rules and the regulations point to arrive at that particular formula or to let us do those things, we say that we have a good chance of succeeding. Basically our concern is sovereignty. Basically our concern also is the fact that we want the prerogative to be our own masters as far as our own destiny is concerned, and education is no exception.

So what I am saying is that participation on the part of the Indian people and its leaders is a prerequisite in moving toward an educational goal.

Mr. **Kildee**. Thank you very much. I think the idea of Indian control set forth in Public Law 95-561 is one that requires, on the part of this committee, continuing oversight and input from you, so I would solicit from all of you a continuing dialog with this oversight group of the Education and Labor Committee. In that way we can make sure that the intent of the legislation of giving Indian control to BIA schools is carried out. Neither the bill nor the rules and regulations are written on Mount Sinai, and they are subject to modification and change as we get experience with it, and the best way for this committee to get that experience is to have you transfer your experiences to us. So we welcome hearings like this and also a continuing dialog with this committee.

Mr. **Tenorio**. Rest assured that in the short time that we have time to present, we certainly have not been complete and thorough, but permit us the time hereafter to come back to you and give you some of our thoughts as we go along.

Mr. **Kildee**. Thank you very much.

Does anyone else at the table wish to make any comments before we go to the next panel?

Mr. Deschampe?

STATEMENT OF NORMAL DESCHAMPE, MEMBER, GRAND PORTAGE RESERVATION, EDUCATION COMMITTEE, MINNESOTA CHIPPEWA TRIBE, ACCOMPANIED BY TOM PEACOCK, DIRECTOR, EDUCATION DIVISION

Mr. **Deschampe**. Thank you, Mr. Chairman, and members. I am pleased to present the following testimony on the implementation of Public Law 95-561 on behalf of the Grand Portage Reservation and the Minnesota Chippewa Tribe.

While we may commend the intent of Public Law 95-561, we, as tribal leaders, and the citizens have concern over the implementation process. First and foremost, the timeframes that the task force operates under is very restrictive and consequently does not allow them to collect the needed data or to do other research that is necessary to make sound and substantive decisions.

Due to the lack of this information we cannot make a determination on which Johnson-O'Malley formula is beneficial to Minnesota and which formula is not. On the formula sent out for voting on May 25, 1979, we have only a written description of the formula, and had no charts showing the per-pupil cost or the State amount. I do not believe that we can make a substantive decision on any formula.

Not only that, my small tribe does not have the manpower or expertise to collect the needed data to make an informed decision.

It is our belief that the information is available to the Bureau of Indian Affairs, and for whatever reason they are unwilling to provide the data. We believe that the information is available to the Bureau because the data is required by the requirement to the education plan.

We are also concerned about section 1103, in reference to basic support fund. It is our contention that the Bureau of Indian Affairs is violating the intent of Congress by not releasing the remaining 50 percent of funds. Former Representative and now Governor Quie, of Minnesota, was the author of section 1103, and he fully understood and intended the money obligated to the Minnesota Chippewa Tribe by former BIA Director of Education, William Demmert and George Scott, also of BIA, be released. The tribe, after assurances from Mr. Demmert and Mr. Scott, told the five basic support schools in Minnesota to go ahead with the program and services, which were started in August of 1977, to continue to the end of the school year.

The Minnesota Chippewa Tribe now owes $68,500 to four school districts, and we do not have the resources to pay the schools.

At the last oversight hearing in April, Mr. Gerard and Mr. Lavis stated that all obligations have been met. It is our contention that they have not. Further on the issue of basic support, Mr. Lavis stated that they could not request basic support funds until the rulings and regulations were changed. With the authorization to revise the regulations and rules, the Bureau of Indian Affairs has still not requested that funds be appropriated for fiscal year 1980 for basic support.

I would like to add to this. It is not in the written testimony. It is dealing with our school at Grand Portage. If we do not get any basic support funds, it is going to put our school at the mercy of the Cook County School District, which is 40 miles away from Grand Portage. If they decide that it is not economically feasible to keep the school open as far as the district is concerned, they are going to be busing first, second and third graders 40 miles to go to school. It also takes the local Indian input into their students' education away from the people. This is a major concern that the people go through every year, and it just would hurt the community as a whole. The school at Grand Portage is a kind of focal point of the whole village, and taking the school away would have drastic effects on the whole community, and the students. I am afraid these kids would go to a larger elementary school which includes kids from the whole county and get lost within the system.

Other problems we have come across in the implementation of Public Law 95-561 is that the Bureau has changed the language of the proposed rules without the consent of the task force involved.

For example, the Bureau has changed the intent of task force 11 on student rights. Mr. Roger Buffalohead, the chairman of the task force 11, states that:

> In the original draft the task force attempted to provide a definition of the right to an education. Among other things, we said that right included: "Curriculum, library and other resource materials, instructor and counselor training, access to tribal elders and native practitioners in the schools in the areas of multi-tribal thought and philosophy." Nowhere in the draft did we use the language "* * * Tribal elders and members having practicing knowledge of tribal customs, traditions, values and beliefs. * * *"

I fail to see how the BIA is going to be able to make this determination. Personally, I believe that it is something that local school boards must decide and should reflect their thinking in terms of implementation. All the task force wanted was a statement indicating that access to knowledgeable tribal experts was an important right of education for Indian students.

I would like to respond to part C, which made changes in the Indian Education Act. The Minnesota Chippewa Tribe believes Indian Education Act, title 4, as we call it, has made many beneficial changes in the education of Indian students. It has allowed our tribe to develop much needed curriculum on the history and government of the Minnesota Chippewa, provided adult education to our people, and through a technical assistance grant from title 4 assisted local parents, committees and schools in delivering educational services to Indian students. At this time, we have two basic concerns regarding the implementation of part C. Section 1150 of the law calling for the development of regional information centers to provide technical assistance, evaluations and dissemination services to Indian tribes and organizations. Institutions of higher learning, higher education and State department of education have been mentioned in a recent National Advisory Council on Indian Education hearing to receive contracts to administer these regional information centers. The Minnesota Chippewa Tribe believes Indian tribes and tribal organizations should be given priority to contract for these regional information centers.

Number two, the Minnesota Chippewa Tribe is concerned that the Office of Indian Education has not published the proposed regulations regarding implementations of the changes in the Indian Education Act. We request assurance that the comments of Indian tribes be given serious consideration on any proposed regulations.

Lastly, the Minnesota Chippewa Tribe request from this committee assurance that all regulations developed as a result of Public Law 95-561, the Indian Basic Education Act, be flexible and allow tribes to exert local options and make decisions affecting our people at the local level. Too many times regulations not only distort the intent of the law; they also hamper local tribal councils in making the right decisions. Only when tribes are allowed to exert real self-determination will we be able to effectively deal with the problems of the Indian education.

[Mr. Deschampe's complete statement follows:]

Norman Deschampe
Grand Portage Reservation
Education Committee Member
Minnesota Chippewa Tribe

Tom Peacock
Director, Education Division
Minnesota Chippewa Tribe
Cass Lake, MN.

Minnesota Chairman and Members:

I am pleased to present the following testimony on the implementation on P.L. 95-561, on behalf of Grand Portage Reservation and the Minnesota Chippewa Tribe.

From a tribal point of view the implementation is a awesome task, not only in terms of the board, sweeping changes made in the Bureau of Indian Affiars, but also in terms of tribal responisbilities. We commend many of the legislatively mandated changes, which in fact, many were needed long ago. The intent of the Act is to make the BIA administratively and structurely response to the needs of the Indian adults and our children.

While we many commend the intent of P.L. 95-561 we as tribal leaders and the citizen have concern over the implementation process, including the process by which the Task Force operate.

First and foremost the time frames that the task forces operate under is very restrictive and consquently does not allow them to collect the needed data or to do other research that is necessary to make sound and sustantive decision. For example, Task Force #2 requested that a contract with the Coalition of Indian Controlled School Boards, Inc., be let so they could collect statistical data we thought was necessary to make decision. In January, the BIA, through Mr. Lavis agreed to a contract. The Coalition submitted a workplan in which the coalition would provide the Task Force #2 with serving data, dissemination, clearing house and technical assistance services.

The contract took 6 weeks to negotiate, and in the process Task Force #2 lost valuable time and in some cases did not have time to gather the needed information. This has a drastice effect on the decision my Reservation Business Committee has to make on the formula. It has also had the same effect on the 5 other member reservations and I assume on other Tribal governments across the country and in Alaska.

The lack of information has is that we cannot make a determination on which formula is beneficial to Minnesota and which formula is harmful. For example, when the proposed formula came out February 26, 1979, the Coalition had charts showing the per-pupil amount for each state and the totals for each state. With this information we were able to submit comments and support a given formula. On the formulas sent out for voting on May 25, 1979, we have only a written description of the formula and no charts showing the per-pupil cost or state amount. I do not believe that we make a substantive decision on any formula. Not only that, my small tribe does not have the man-power or expertise to collect the needed data to make an informed decision. Because of this I cannot fulfill any obligations as a tribal council member. It is also my belief that many tribes, if not all, are in the same position. If this is true, the Bureau of Indian Affairs is doing a great disservice to Indian and Alaskan Native people.

It is our belief that the information is available to the Bureau of Indian Affairs, and forever what reason are unwilling to provide the data. We believe that the information is available to the Bureau because the data is required by the requirement of the educational plan. The data that is needed is state and district operating cost, those factors play a part in determing the per-pupil allocation in Option 5. Option 5, we believe is beneficial to Minnesota in terms of funds available per-pupil, but, we don't know for sure. The main point is that the information was not made available to Task Force #2.

We are also concerned that under Section 1103 in preference to basic support funds. It is our contention that the Bureau of Indian Affairs is violating the intent of Congress by not releasing the remaining 50% of funds. Former Representative and now Governor Quie of Minnesota, was author of Section 1103 and he fully understood and intented the money obligated to the Minnesota Chippewa Tribe by former BIA Director of Education, William Demment and George Scott, also of the BIA, be released. This fact is very upsetting to us and places the Minnesota Chippewa Tribe in a very tenuas and illegal position. The Tribe after assurances from Mr. Demment and Scott, we told the five basic support schools to go ahead with the program and services, which were stated in August of 1977, to continue to the end of the school year.

The basic support school did continue because they had already signed teacher contracts and made financial committment for other staff and programs. The Minnesota Chippewa Tribe now owes $68,500.00 to 4 school districts, we do not have the resources to pay the schools.

At the last oversite hearing in April, Mr. Gerrard and Mr. Lavis stated that all obligation have been met. It is our intention that they have not.

Further, on the issue of Basic Support. Mr. Lavis stated that they could not request basic support funds until the rules and regulations were changed. This position conflicts with position he and Gerrard made with Task Force #2 where they authorized the Task Force to begen revising the regulation and he further authorized the Task Force to conduct hearings along with Task Force #1, (874) to recieve and hear comments on basic support regulations, tuition payments, and supplemental regulations.

With the authorization to revise the regulation and rules the Bureau of Indian Afairs has still not requested that funds be appropriated for FY80 for basic support. It is our contention that Section 1103 is not being implementated.

Other problems we have came across in the implementation of P.L. 95-561 is that the Bureau has changed the language of the proposed rules without the consent of the Task Force involved. For example, the Bureau has changed the intent of Task Force #11 on Student Rights. Roger Buffalohead, the chairman of Task Force #11 states that "In the orginal draft the Task Force attempted to provide a definition of the right to an education. Among other things, we said that right included: "Curriculum, library and other resource materials, instructor and counselor training, access to tribal elders and native practitioners in the schools in the areas of multi-tribal thought and philosopy." No where in the draft did we use the language " ...Tribal elders and members having practicing knowledge of tribal customs, traditions, values and beliefs..." I fail to see how the BIA is going to be able to make this determination. Personally, I believe that it is something that local school boards must decide and should reflect their thinking in terms of implementation. All the Task Force wanted was a statement indicating that access to knowledgeable tribal experts was an important right of education for Indian students.

He further has stated that the published regulations distort the intent of the Task Force submitted regulations.

A siniliar situation has happened to Task Force #2, where changes not agreed to between Mr. Lavis' office and the Task Force were made. The specific part is in the date the ballots were to be recieved. The cover letter written by the Task Force state that the ballots be "received" no later than June 27, 1979. The Bureau changed the language to read "postmarked" no later than June 27, 1979. This effected the remaining action plan and pushed certain task completion dates back even further. And with having ballots "postmarked" put the Task Force members in a position of not knowing when the ballots will come in, especially from Alaska.

There is also concern that names of the Task Forces communicated with each other and that the Steering Committee members did not refer common ideas back to the appropriate Task Forces.

The lack of communication has also lead to conflicts between Task Force proposals. For example, there is a conflict between Indian Education Policy and Indian School Equalization Program, the Education Policy.

Mr. **Kildee**. Thank you very much.

The two bells have rung, and that is a record rollcall. I have to go over to the House to vote on whether we send a message to the President of the United States or not. In any event he is in Vienna now, so I am sure he won't get it right away. I shall return.

[Brief recess.]

Mr. **Kildee**. Thank you, again, for your indulgence.

Mr. Deschampe, could you describe for our record some aspects of your school system, the number of schools, the students, the budget for the school?

Mr. **Deschampe**. Yes, sir.

Mr. **Kildee**. Actually, the school is run by the Chippewas in Minnesota?

Mr. **Peacock**. I can respond to that.

The schools are elementary schools. They are all located on the six Indian reservations constituting the Chippewa tribes. All are elementary schools. All were formerly Bureau of Indian Affairs' schools until the early 1950's. The total budgets and the requests that we usually turn in on the need to keep them open in terms of basic support is around $380,000 to keep them open. Two of them were closed immediately.

There was no basic support money. Three were to stay open for several years. It would be a matter of time. Essentially, that is what we are dealing with.

Mr. **Kildee**. How much Johnson-O'Malley basic support funds were you receiving prior to the phaseout?

Mr. **Peacock**. We were receiving in the neighborhood of $300,000 when the phaseout began. One of the schools, Point Elementary School, 50 percent of their elementary funds were released. They received a full allocation last year of about $140,000. The rest of the schools only got 50 percent of the money.

Therein lies the problem for us. The schools have to budget. Because of teacher contracts and keeping the school running, they went ahead and budgeted the money and the money did not come in.

Mr. **Kildee**. Mrs. Vance is very familiar with this particular area and I would refer to her for some questions at this time.

Ms. **Vance**. Mr. Deschampe, you have brought out two areas in the Johnson-O'Malley program which the Congress has been very concerned about and you address them clearly in your testimony. Maybe it would be easiest if I could ask questions on the Johnson-O'Malley basic program first and then we could go to the supplemental.

You mentioned in your testimony that the Minnesota Chippewa Tribe has a deficit of $68,500 because the tribe reimbursed the four schools for the cost of the Johnson-O'Malley basic program. The General Accounting Office last year conducted an audit on several of the schools that were participating in the Johnson-O'Malley basic program.

Was your school or any of the four schools that you are talking about here audited by the General Accounting Office?

Mr. **Peacock**. The schools that were recently audited?

Ms. **Vance**. Correct. The Bureau of Indian Affairs conducted an audit last year. The schools were audited by the Bureau of Indian

Affairs. Were they also audited by the General Accounting Office? That would have been since January of this year.

Mr. **Peacock**. No.

Ms. **Vance**. In the audit the Bureau of Indian Affairs conducted on this year was the deficit shown, the fact that there were inadequate funds in the Johnson-O'Malley basic program to cover the costs which the schools incurred?

Mr. **Peacock**. It was not because the audits were done with each particular school. The problem that did not come out was that the fiscal years were different. The fiscal year for the school district and the fiscal year for the Government were two different things.

It looked like the schools were carrying the large surplus and in fact they were not. The fiscal years are different.

Ms. **Vance**. Was there any attempt to explain that to the Bureau of Indian Affairs' internal auditors or are they aware of that now?

Mr. **Peacock**. They are aware of that now.

Ms. **Vance**. What has their response been on that issue?

Mr. **Peacock**. We submitted a request with the release of that recently and also requests for the coming year. We have not gotten a reply yet.

Ms. **Vance**. How recently?

Mr. **Peacock**. Within 2 weeks. We were supposed to have an answer by June 8 which was last week.

Ms. **Vance**. The State of Minnesota is a little different than many of the other States that have Johnson-O'Malley basic schools participating. The State legislature last year approriated funds to carry those Johnson-O'Malley basic schools over this year—kind of an emergency contingent fund.

Has anything been done by the State of Minnesota for next year or what is your insurance against perhaps closing and merging with Cook County as you mentioned earlier?

Mr. **Peacock**. The State this year included in their State foundation aid an emergency appropriation again.

Ms. **Vance**. For the current fiscal year, the current operating year, 1978–79?

Mr. **Peacock**. Right. The stipulation was in that the fund should be provided on a Federal level. I think what has to be realized is that local school districts, what we are dealing with is local school districts that are essentially non-Indian that don't want, if they have to provide it out of local or State coffers, to keep schools open. These are isolated Indian schools and they are all part of non-Indian school districts except for Annette Lake.

We are dealing with people who don't care about Indians. The only people are the Indian community that want to keep the schools open.

Ms. **Vance**. So your State has not been responsive to meet the needs you will have in the 1979–80 school year?

Mr. **Peacock**. Right.

Ms. **Vance**. From information I received from your tribe last year, it was the understanding then that in order to close a school in Minnesota there had to be public hearings and the process had to begin a year in advance of the actual closure of the school.

To your knowledge has anything like that happened that would indicate that in the 1979–80 school year you will be merged with Cook County or is that process of holding hearings begun yet?

Mr. **Deschampe**. It has not started yet.

Ms. **Vance**. Is that an accurate description of the process before you close a school?

Mr. **Peacock**. Yes.

Ms. **Vance**. So that even though you don't have money, somewhere along the way you cannot legally close the school next year in Minnesota?

Mr. **Peacock**. That is right. We also can't carry a deficit.

So, again, there is no money to operate a school and it is a catch-22 situation.

Ms. **Vance**. I would be interested in being in touch with you then, perhaps, to find out what kind of response comes to you from the Bureau regarding your current deficit of $68,500.

Also, I have a couple of questions on the supplemental program. You mentioned that because there was such a delay in carrying through on the contract for the Johnson-O'Malley supplemental formula options that you did not have all the time or information needed to make an intelligent vote on the formula for the distribution of Johnson-O'Malley supplemental money.

Do you now have all the information that you need to make an intelligent decision?

Mr. **Peacock**. No. It is difficult, especially when each individual reservation has to make a decision, our person who knows formulas can't figure out all those formulas. We don't have the expertise to do it. If it was done through something we could easily understand, charts or data where the figures were shown on what Minnesota would receive, we could make an intelligent decision, but we cannot.

Ms. **Vance**. Have you been in touch with the Coalition of Indian School Boards to find out if they have a technician that can help you understand that? Or what additional information, other than a chart showing what Minnesota would gain or lose under the various formulas would you need?

Mr. **Peacock**. I think that would be sufficient.

Ms. **Vance**. How much time would you need to make a decision after you had that information?

Mr. **Peacock**. Not very long.

Ms. **Vance**. A couple of days?

Mr. **Peacock**. Yes.

Ms. **Vance**. Thank you very much.

Mr. **Kildee**. What is the attitude of the Cook County school officials about the possibility of merger?

Mr. **Deschampe**. We have talked to them quite frequently on this. It is a little different this year. We have a brandnew school board so I can't react to what their feelings are.

We have had problems with the superintendent. He has told me personally that—and it is a fact—that it does cost more to run a school like this. It would be a lot cheaper to put them on a bus and blend them into an existing school. We tried that a couple of times, to get the Cook County School Board to pass a resolution at their board meeting supporting our school, and that has failed.

The attitude is generally that if you want your school, you are going to have to go and find the money yourselves to keep the school open.

Mr. Kildee. If the students were, say, merged and they were for fiscal reasons transported by the Cook County system to another school, would you anticipate a drop of enrollment of students because of the transportation?

Mr. Deschampe. Yes. I think so. I went to the high school. The elementary school, after the students graduate from elementary school they are transferred to the high school at Grand Marie. It is 1-hour-and-15-minute bus ride. You are up at 6 to catch a bus and home at 5 at night.

I don't think elementary students could deal with that. It would be too long. It puts the high school students at a disadvantage. We did at one time have junior high at Grand Portage, but they are now going to Grand Marie. It just makes a long, hard day for students.

Mr. Kildee. You mentioned in your testimony about some changes made by the bureau to the task force recommendations. Do you know where in the Bureau those changes in those proposals were made and why do you feel that they were made?

Mr. Peacock. I can answer that.

I think it has already been noted that there is some ambiguity in some of the regulations that have come out. I think maybe when the people in the Bureau had to put the regulations that came out of the task force into language, into proper language, whatever that is, that the intent and the meaning of some of the regulations have changed. I have noticed that also in the task force that I was on.

So I think that something that this committee should watch very carefully is to help clear up the ambiguity. It is difficult.

Also, make sure that the intent of the law is followed.

Mr. Kildee. Do you have any questions?

Mr. Lovesee. No, sir.

Mr. Kildee. We would like to thank both groups for your fine testimony this morning. It has certainly helped guide and enlighten this committee.

We want to also encourage you to keep in contact with us on a continuing basis since the whole area of education is dynamic. That certainly includes Indian education. We want to make sure that the services to the students are the best that is possible and we know we have a long way to go in this area. We want to work closely with you but we can only do that if we have the benefit of your input.

We appreciate your testimony here this morning. Thank you very much.

I think we will break this next group up. We will have Dr. Bill Berlin first come up from the Cheyenne and Arapaho Tribe, Oklahoma City, Okla. Your own Congressman also assisted with the department of education amendment on the floor.

Do you have a written statement also?

STATEMENT OF BILL BERLIN, CHEYENNE AND ARAPAHO TRIBE, OKLAHOMA CITY, OKLA.

Dr. **Berlin**. There has been one prepared and submitted.

Mr. **Kildee**. That will be included in the record in its entirety. You may proceed in any fashion you would like to.

Mr. Lovesee would like to ask a question.

Mr. **Lovesee**. May I ask the witness if his statement is submitted already?

Dr. **Berlin**. To my knowledge it has been.

Mr. **Lovesee**. It has not been received by the subcommittee. Perhaps if it was left off at someone's office, we can pick it up.

Dr. **Berlin**. It was my understanding that it was delivered to a Miss Scherri Tucker in your office.

Mr. **Lovesee**. Unfortunately, that seems to be erroneous information. Perhaps we can proceed with an oral statement and work from that. We can perhaps straighten it out afterward.

Dr. **Berlin**. Very well.

Again, thank you for the opportunity to appear. I would like to say that I am authorized to appear by the 21st Business Committee of the Cheyenne and Arapaho Tribes and also by extension of their prerogatives under 93-638 to have these comments also reflect some of the feeling of the Concho Board of Education whose members are members of the Cheyenne and Arapaho Tribes.

Specifically, a Mr. Art Hill who is a member of the business committee and is also a member of this board of education was to have appeared today. However, Mr. Hill is participating in our annual ceremonials, that commitment having been made many months in advance. He asked me to represent him. I will do that to the best of my ability.

We have some general concerns. I think they reflect Mr. Tenorio's comments as to the involvement of the grassroots people in the decisionmaking relative to the implementation of the new law.

In some terms of specifics, I might cite as an example that in terms of the policy section where the policies are set forth, and in the final section of the policies, Section 31A(5) where it talks of evaluation and implementation, the entire function in programmatic responsibilities associated here, the evaluation of these, are given only to the Director of the Office of Indian Education Programs.

It would seem to us that tribal involvement should be very much a part of evaluation of the programmatic responsibilities as well as the functional responsibilities.

In other instances, we feel that there are possibly because of the nature of the task force approach to writing the regulations, that many of the task forces wrote them from their own perspective and perhaps did not understand the Oklahoma situation as well as those obviously from Oklahoma.

Quite often the function of the area Office of Education which would have a decided impact on the way that dormitory schools and boarding schools are operated in Oklahoma were not addressed.

We feel this is probably an oversight, but we wish to call attention to this, hoping that this can be corrected prior to the implementation of the law.

In other areas, I think we feel also that tribal prerogatives may be preempted, specifically in terms of the standards and in the philosophy that may develop as a result of these regulations.

In particular, there is a reference in the allocation formula that—there are several references, but one in particular if I may have a second to find it—that deals with the—yes, if I may read that section. It is under section 31H(11), Definitions, part F or subpart F, which says, "K-3 intense bilingual means a weighted program for a student who is present during a count week in kindergarten through grade 3 whose primary language is not English and who is receiving special supplemental services for bilingual education needs."

Philosophically, it seems that we are, as a tribal group, going to be forced into a structured, graded system in order to meet these kinds of requirements, whereas an open concept school, a nongraded school, would have difficulty determining which children were going to be counted for an intense bilingual program as opposed to those of maybe the next age group.

If I am making my point, this is an educational, philosophical question, and if the rules go down in this fashion, then we are precluding from operating for that nongraded philosophy or we stand a chance of losing funds because we cannot identify children in the method that they prescribe for us.

Further than that, I think in terms of philosophy, this very section that I read smacks of the assimilationist philosophy that we have fought so bitterly over the years.

I think the spirit was to provide instruction in the language, the native language, of the child. But there is nothing that says so here and it would be very easy for this to become a remedial program geared to making English the first and primary language.

The language is not clear. So we hope that this spirit would be in terms of maintaining and preserving the child's original language under these regulations.

Mr. **Kildee**. Are you talking about the same problem they have in other schools, whether bilingual should be transitional or maintenance?

Dr. **Berlin**. Yes. We hope that the spirit is for maintenance. But it is not clear. By making it an intense bilingual program with a weighted factor, it would be very easy, in our opinion, to interpret especially by educators who may not be indigenous to that particular tribe, that they may see this as a need to concentrate heavily on the English at the expense of the mother language.

We are also concerned that the allotment formula does not initially address the gifted and talented, that it is only referred for later consideration, whereas the Office of Education already has programs of this nature and the Bureau schools not being entitled to that opportunity to receive those funds, it was our feeling that this should be included initially and originally in the allocation formula, that one of the great problems that our students have had through the years is the fact that their gifts and talents have not been identified and we have dropout problems of significant proportions.

We feel that this is one of the reasons because the standard programs that have been offered have not reached the lives of these children in such a way that their gifts and talents have been recognized and they have been rewarded commensurately for them.

In addition, we are wondering why the exception of speech therapy is made for additional counts rather than all of the various kinds of handicaps that are mentioned. It would appear that obviously speech therapy is a very important part of the educational process for children who have this particular handicap.

But why that can be repeatedly weighted and the others only counted one time is somewhat of a mystery to us. It would appear that certain kinds of handicaps of a physical nature might be of such magnitude that they would require much more attention than perhaps even the speech therapy.

For instance, a child that might have multiple physical handicaps such as they would be confined to a wheelchair, also then coupled with sight problems would require a high rate of intensive application of teacher time or teacher and aide time. This would push your costs up significantly.

So that it would seem that some kind of individual attempts to identify these should be made rather than just a plain allocation or an across-the-board allocation for a specific handicap.

I think this will conclude the general comments that I would like to make.

Now I would like to turn to the submission that was supposed to have been made that did not get to you. Again, I will remind you that I am speaking for and on behalf of Mr. Hill who is a member of task force No. 6, the school board's task force. There are concerns that he wanted to bring before the committee.

Now these deal with the attempts to get the school board task force materials into publication for review by the Indian country. If I may read the document at this time inasmuch as it is not available to you, or summarize it.

Mr. KILDEE. If you would summarize it and make it available, we will make the entire document part of the record.

Dr. BERLIN. Very well.

[The information referred to above follows:]

* documentation attached

The School Boards Task Force's objective was to develop regulations that would permit the Bureau in carrying out the functions of the Bureau education program to facilitate Indian control of Indian affairs in all matters relating to education under P.L. 95-561.

The School Boards Task Force consists of 6 Indians serving on tribal education programs, one non-Indian with the Navajo Area School Boards Association and one Bureau employee. The commitment of time and effort by the Task Force is represented by the proposed regulations *first pages identified as 25 CFR Part 31d - School Boards.

This product is the identification of processes to meet the major task of facilitating Indian control of the BIA education program. The School Boards Task Force requests that this document be published in the Federal Register as soon as possible.

The assumptions the Task Force worked under and subsequent events follows:

1. Time Lines. They were told they did not have statutory time lines to complete their proposed regulations.

The Solicitor's Office now states that two conflicting documents cannot be published at the same time. The conflicts occur in sections of the document where school board powers and duties were included: Definitions, Financial plan, Personnel, Basic education and dormitory standards, Facility construction standards, Student rights, Management information system, Annual report, and Informal conference and formal hearing.

The School Board Regulations was to be the one document that school boards could use as a tool with information in all their areas of responsibility to operate their schools. The areas cited were those that specifically referred to school boards and were written from a school board's perspective.

The problem now posed is that the regulations published in the May 22 Federal Register have a termination comment period date of June 21; this will nullify some of the School Board regulations.

*Phoenix a/o

2. Coordination. The Task Force requested by resolution, April 2, 1979, that a coordinating committee be established consisting of a member from each Task Force, a technical writer and an attorney to ensure continuity and coordination of regulations of all Task Forces. Computer printouts * were submitted to the Solicitor's and Deputy Assistant Secretary's offices in early May for preliminary review purposes.

*attached

On April 19, a letter was sent following a conference on April 16 with the Deputy Assistant Secretary -- Indian Affairs documenting the discussion in part and emphasizing the importance of coordinating the School Board Task Force regulations with the other task forces' regulations. In the event of inconsistencies, precedence of regulations would be those developed by the School Board Task Force.

It was also mentioned that inconsistent regulations would give Indians more options to choose from. Prescreening determines the adjustments to regulations that may not be as compatible as those prescreened out. Indian self-determination policy supports this option process.

that may have been eliminated [illegible]

These statements were basic assumptions the Task Force was guided by in their efforts.

The School Boards Task Force met with the Deputy Assistance Secretary -- Indian Affairs on June 7, 1979, to attempt to resolve the delay of publication of the proposed regulations submitted May 25. The Deputy Assistant Secretary -- Indian Affairs made an administrative decision that the Task Force could publish the regulations with some changes. These changes were made and given to the Deputy Assistant -- Indian Affairs on June 11. This was with the understanding that some adjustments may occur after the comment period. In the interim the Solicitor's Office was to review and to forward a copy to OMB. The regulations have not been processed. This is to request that the Department of Interior move expeditiously to publish these proposed regulations within a 30-day period.

Peter Soto and Forrest Cuch, Co-Chairmen

April 19, 1979

Mr. Rick Lavis, Deputy Assistant Secretary - Indian Affairs
U.S. Department of the Interior
18th and C Streets
Washington, D.C. 20240

Dear Mr. Lavis:

On behalf of the School Board Task Force, I wish to thank you for our meeting with you on April 18, 1979 in Denver, Colorado. Insofar as our meeting was a dinner meeting, it was enjoyable to discuss with you the concerns that have been expressed by the School Board Task Force in various meetings. This was an opportune time to discuss the following concerns:

1. Due to the importance of school boards, it was requested by the Task Force that they be involved in the follow-through of finalization of the rules and regulations.

2. In the preparation of the school boards' training package as indicated by Mr. Barlow, the School Board Task Force would like to be included in the development of this training package for school boards. This request is within the scope of work for the School Board Task Force.

3. The School Board Task Force recommends that the School Board Task Force be a policy-making body. It wishes to emphasize that it is important to coordinate the School Board Task Force regulations with the other task forces' regulations to insure consistency in implementing PL 95-561. In the event that there are inconsistencies between the other task forces' rules and regulations, precedence of such rules and regulations will be given to those developed by the School Board Task Force.

4. Due to the complexity of the involvement of school boards within PL 95-561, it may be necessary to schedule two or three meetings prior to submission of the School Board regulations to your office. There is a need for legal assistance, therefore, this is to request that Mr. Robert Moeller from the Phoenix Area Field Solicitor's Office be made available for technical and legal assistance. The School Board Task Force also requests Dr. Helen Miller's assistance in finalizing the regulations, as well as attending task force meetings.

Sincerely yours,

Peter Soto

Chairman, School Board Task Force No. 6

April 19, 1979

DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS

(25 CFR Part 31)

School Boards

AGENCY: Bureau of Indian Affairs, Department of the Interior

ACTION: Proposed Rule

SUMMARY: Notice is hereby given that it is proposed to add a new part to Subchapter D, Chapter I, of Title 25 of the Code of Federal Regulations. This addition is proposed to define School Boards, their powers and duties in the Office of Education in the Bureau of Indian Affairs. The part establishes procedures and practices of School Boards in the Bureau of Indian Affairs, including Bureau-operated schools, Area and Agency Office education programs, and tribally-contracted schools, where applicable.

DATES: Comments must be received on or before

ADDRESS: Send comments regarding the proposed regulations to Office of Indian Education Programs, Bureau of Indian Affairs, 18th and C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Soto, Phoenix Education Area Office, Bureau of Indian Affairs, P. O. Box 7007, Phoenix, Arizona 85011.

SUPPLEMENTARY INFORMATION: This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary - Indian Affairs by 230 DM 1 and 2.

* *

~~Motions: Pete Soto made a motion to accept this draft as a first draft, only.~~
~~Adolph Jimmie seconded the motion.~~
~~Motion carried unanimously.~~
~~(At meeting held at Denver, Colorado - April 19, 1979)~~

Dr. **Berlin**. The attempt of the school board's task force was to develop regulations that would carry out the functions in terms of section 1130 giving control to Indian people. The regulations were written from the standpoint of the school board and their opportunity to function in a new role that they had not and have not heretofore been able to utilize being mostly advisory in nature.

The task force had no time lines such as other task forces had. So out of the large number of initial meetings, it became apparent that many of the problems were complex, and that there needed to be much coordination with other task forces.

Much of this was attempted and considerable interaction was accomplished. However, some of these task forces had deadlines. They moved ahead and have obviously published their proposed regulations.

The school board's task force has attempted to do the same thing except that we have met some setbacks. Some of these are the delays in getting the Bureau in certain instances to move forward as requested by the committee. There were several meetings with Mr. Lavis, one which is documented in the report in April, suggested that school board regulations would have in some way priority or would have a preeminence if there are conflicts with other task force regulations as presented, but the fact is that with the publication of the proposed regulations at this time and the fact that the school board's task force regulations have not been published means that if these are finalized and approved, many of the school board recommendations and regulations will not be fulfilled.

This is distressing because we feel that due to the amount of work and the consideration, some of these recommendations perhaps are better in some ways for the school boards and for Indian people, for Indian children, and their educational efforts than perhaps what has already been proposed.

We are asking actually that these regulations be published immediately. There have been some delays. We were told by the solicitor, a member of the solicitor's office, Mr. Barnes, that the definitions and some of the other areas would have to correspond and be consistent with those already published.

We were told further that they would have to be reviewed by OMB and we understand that this is the process. But there have been delays that we have not been able to understand as to why this has not already been done. A submission was made on May 25 of these for these kinds of purposes and they are still not published. Also in a meeting with Mr. Lavis on June 11 he assured us again that these would be moved forward and to the task force's knowledge this has still not been accomplished.

I think one of the considerations in this is that while we were told that the regulation would have to be consistent with the definitions, et cetera, of the prepublished rules, to our way of reading, it must not have been done in the proposed regulations, if I may cite a specific instance in support of that.

In the allocations section under definitions, subpart C where the definitions are listed, subpart C under subpart C, cumulative total means the sum of all daily student ADM counts during count weeks.

Then in subpart F under definitions again, subpart A under subpart F, cumulative total means the sum of all funds carried over from previous calendar years and unobligated in the amount of the current fiscal year.

Mr. **Kildee**. Could you cite the page in the Register?

Dr. **Berlin**. Yes, the first reference was on page 29848 of the Federal Register for Tuesday, May 22, 1979, and under subpart C, paragraph C, cumulative total.

Then the second reference is on page 29850, subpart F, paragraph A, cumulative total again is used with a different definition.

So our argument is that here we have conflicting definitions of the same term, the same term used in the proposed regulations, yet we are told that we would not be able to do this.

It would seem to us that under any published regulation in a specific instance, that for that particular instance that definition stands, even though it might disagree with a definition previously published in another time and place, as this would appear to be the case here.

So we were asking that our definitions reflect only the definitions used in that particular publication when they are published and that they not be held up and try to make them consistent here.

Again, I think a significant argument from the Indian people's point of view is that the more opportunities they have to see and to choose, the more apt they are to make decisions based upon their wishes and not ours or not the Bureau's or whomever.

I think this will conclude my prepared statement. I hope I have summarized this adequately.

Mr. **Kildee**. Thank you very much.

I would like counsel to make a comment on one of the points you raised here.

Mr. Lovesee?

Mr. **Lovesee**. My comment will follow what has been the habit of this subcommittee to make the hearings on this subject informative to the public as well as to the members. I am aware of the particular problem with the school board regulations.

The major problem that I see there is timing. Why was the timing of regulation publication not coordinated? The problem, however, at the moment with respect to the publication of those particular regulations seems to stem more from the requirements of the Federal Register people and also their legal requirements with respect to regulations.

Once a regulation is proposed, any new regulation which purports to impact the proposed regulations, cannot be published. In other words, the only thing you can publish are proposals to a final regulation.

So what you have to do is wait until the proposed one becomes final and then you propose another one to change it.

One of the problems with the school board regulations, for instance the problems with the definitions, is the fact that the school board regulations impact all the other sections. Therefore, they cannot be read as a separate entity, in which case a different definition would have integrity simply because it would only apply to that section.

Instead, the school board regulations have to be subdivided so they apply to each of the currently proposed sections. Then they would create an ambiguity which is illegal at the moment.

Again, that does not resolve the question of the timing, nor the problem of coordination or resolution of differences.

Hopefully, however, the proposed recommendations of the school boards will become the basis for a submission in the Register at a later time when it can be legally done, in a form not changed prior to publication.

Mr. **KILDEE**. Do you have any comments, minority counsel?

Ms. **VANCE**. No, sir.

Mr. **KILDEE**. What specifically could be changed or what general philosophy should be followed to make these regulations more relevant to the situation in Oklahoma?

Dr. **BERLIN**. I believe that the reliance upon the tribal and local boards and reflecting that throughout in the language of the regulations, making sure that it is specially, mentioned in each instance would have that effect.

When the school board regulations are published, I think that will provide the basis for the local control that will make it work. Then, making sure that in the specific instances throughout the regulations that the proper offices are noted, where, as I say, in some instances the area office needs to be noted in a particular paragraph to make sure that it is clear that it has that responsibility or function to provide technical assistance or whatever.

Sometimes I think it was merely oversight, but that needs to be done. If it is not specifically mentioned, then that leaves room for saying it is not our function, therefore we do not have to provide.

Mr. **KILDEE**. You mentioned that there are problems with the K-3 intense bilingual program. Could there be an open school grade concept for purposes of the formula which would not actually change the formula but group qualified students according to classroom level or testing? Is the problem even deeper than that?

You mentioned that you would not have the option of the ungraded type of school under this language.

Dr. **BERLIN**. Perhaps merely on an age basis rather than mentioning a particular grade level. Then a certain number of children in a given age range, regardless of where they stand academically, may be just as efficient and effective here.

Research in education shows that the younger you get them, the more effective the educational process is.

I think that was the intent here, to make sure that the K through 3 as they spell it out here are addressed in this fashion. Certainly we agree with that intent. But it is very possible that some children may not mature at the level until they are well into the 11, 12, 13 age range. Therefore, a grading system might be beyond this situation.

So I think that categorically, if it must be done, then it would just be on an age range rather than a grade range.

My fear, also, was that when something is in print, it has an impact. Once you have stated a graded concept, then it has its impact on the people who are putting this together and especially if they are not familiar with educational planning and may not be aware that they are being affected by that, if this makes any sense to you.

Words in print have the impact of law and we react to them quite often unconsciously.

Mr. **Kildee**. 31A(5) is changed from the recommendations of the task force. How would you wish to have this written?

Dr. **Berlin**. I didn't rewrite it except that I think that there should be included some advisory groups, some method for input from the grassroots level. This might well be some kind of national advisory group or some kind of representation from these local or agency school boards that could assist in this.

The guidelines themselves and their development would take the form, perhaps even the task force approach again in the same way that the regulations are formulated, that task forces be formed to help the director develop guidelines for evaluating.

Mr. **Kildee**. Does either minority or majority counsel have additional questions?

Mr. **Lovesee**. No, sir.

Mr. **Kildee**. Thank you very much, Dr. Berlin, for your testimony this morning.

Mr. **Lovesee**. Doctor, will you be able to stay long enough for us to reach a resolution on the whereabouts of your statement?

Dr. **Berlin**. Yes, I will be at your disposal.

Mr. **Kildee**. I would like to have Mr. Jackson, a member of the education committee of the Navajo Tribal Counsel, Navajo Tribe throughout Arizona, accompanied by Mr. Chee Benally of the tribal staff and Mr. Joe Pearson of the tribal staff.

You may proceed in whatever manner you have determined.

STATEMENT OF JACK JACKSON, MEMBER, EDUCATION COMMITTEE, NAVAJO TRIBAL COUNCIL, NAVAJO TRIBE, WINDOW ROCK, ARIZ., ACCOMPANIED BY CHEE BENALLY, TRIBAL STAFF AND JOE PEARSON, TRIBAL STAFF

Mr. **Jackson**. Thank you, Mr. Chairman.

My name is Jack Jackson, a member of the Navajo Tribal Council and the Navajo Education Committee.

To my left is Mr. Chee Benally and Joe Pearson.

We would like to thank the subcommittee for giving us the opportunity to come before you.

First of all, the Navajo Tribe is very much in favor of this particular educational act. However, we have several concerns and we would like to express these concerns to you.

First of all, the concern is, we are in favor of the direct linkage from Washington to the local school board, however, you realize that we have more than 68 schools on the reservation and this will sort of create a problem.

We are in favor of the establishment of a certain centralized hierarchy within our Navajo school. Perhaps a designation of centralized hierarchy or Navajo Educational Agency under the auspices of the Navajo Tribal Government will enable many of the local schools to have equal and direction access to Federal funds without the present array of special appeals, rules, interpretations, and legislation.

The Navajo Tribal Educational Agency would also have a more direct influence on the formulation of unified Navajo educational policies and curriculum development regarding the education of Navajo people.

A common theme of concern during the hearings that the Navajo Education Committee had with various educational groups, a concern was the two types of school organizations, the Bureau and the contract schools. The original makeup of the two school systems would not provide for a mutual expression of priorities and implementation under the act.

For example, the BIA schools have an appeals process for personnel grievance cases while in a contract school, the school board can simply dismiss its director. More consideration should be given to the organizational structures of the two types of schools, the BIA and contract schools, and more specific guidelines developed for each of the two school systems. The contract schools are entitled to equal and competitive status with the Bureau schools but the regulations can prevent this in certain cases.

It could be the State's interpretation that it is only the Federal Government's responsibility to provide comprehensive education programs and services for Indians and Alaskan Natives and that States themselves are being relieved of any duty with respect to Indian education.

While Public Law 95-561 is facilitating Indian control of Indian affairs in all matters relating to Indian education, careful consideration should be given to planning the sequences of a future foundation for Indian education.

The personnel section addresses what it intends to do for the employment of educators at both the primary and secondary education levels. The public school district procedures are by no means without their problems but, as stated, the regulations are more responsive to the needs of Indian tribes and school administrators. Throughout this section a heavy reliance is based upon State procedures and requirements when there is no substantial evidence to warrant the effectiveness of State standards.

The Indian school boards are involved in limited participation but the Bureau is still the final authority. There are no appeal procedures for the boards and minimal involvement by the tribe's governing bodies.

If the Bureau is to provide "quality educational opportunities" then educators within the Bureau system should be provided less limitations.

Under both the policies section of the regulations—(S. 316.2(a))—and Public Law 93-638, the Bureau of Indian Affairs is supposed to actively encourage tribal control and tribal participation in the education of their people. In many sections of these regulations, the tribal governments have been excluded from the key review and decisions processes which are made instead by either the Secretary and/or the Indian Education.

There is a need for task forces and tribes to continue reviewing the implementation of this law, with options for modification and even revision, at least through the first years of operations. The concern and disagreement expressed by a wide range of Navajo educators over the proposed formula funding also indicate the need for review and realistic modifications in the light of experience with the law.

The Navajo Tribe has consistently expressed their desire for smaller day schools near the child's home yet portions of the funding recommended in these regulations not only favor large dormitories, but also the placement of kindergarten-aged children in dormitories.

There is both too heavy and too exclusive reliance on distance to schools near the applicant in assigning their weighting for school construction priority. This type of evaluation ignores the adequacy of the nearest schools in terms of engineering standards and education program standards which in turn forces Navajo children to attend substandard schools.

There is no written section pertaining to student responsibilities although there is quite a delineation of student rights. This might have the effect of limiting school personnel authority and maximizing restrictions of all kinds in the absence of what constitutes student responsibilities.

Finally, the Navajo Tribe supports the provisions to provide grants to the Navajo Community College.

We hope that the subcommittee will address our concerns earnestly and will advise us of their response and/or action to our recommendations.

We thank the subcommittee for soliciting our review and comments.

Finally, I wish to submit this additional material for inclusion in the record.

Thank you.

Mr. KILDEE. Yes, subject to the length of the submitted material it will be included. Otherwise, it will remain on file. If they are within our usual length requirements, they will be included as part of the testimony for this hearing.

I am willing to tentatively make them a part of the record at this time.

Mr. JACKSON. Thank you.

Mr. KILDEE. Did you wish to also add to the testimony at this point?

Mr. BENALLY. No. That concludes it.

[Information retained in subcommittee files.]

Mr. KILDEE. I really considered it a rare privilege and honor to speak to your tribal council when I visited the Navajo in the springtime. I learned a great deal from that trip.

At that time, we discussed questions from the floor and, Chairman McDonald regarding the role of the local school boards and their relationship to the BIA and the role of the tribal council.

In your opinion, will the tribal council establish rules to govern the school board operations, and, if so, would you feel a central agency would be necessary to keep the tribal council's authority in place in the delivery of educational services? Has the tribal council thought in terms of a central agency and certain authority for that central agency?

Mr. JACKSON. I think the Navajo Tribal Council, with their advisory committee, and the education committee, would be designated to take care of that area.

Mr. Kildee. They will assume that function, then?

Mr. Jackson. Yes.

Mr. Kildee. Do you think that will be sufficient? Will they, in turn, formalize some rules for the individual school boards within the Navajo Nation?

Mr. Jackson. We have a division of education, and also we have what we call a Navajo area school board association. I believe some of the rules and regulations have been established already, and I think all it needs is modification of the rules, and I think we are in a position at this point to go ahead with our own organizational plan.

Mr. Kildee. That will be internal to the Navajo Nation, the relationship between the local individual school board and the tribal council?

Mr. Jackson. Yes.

Mr. Kildee. And you are working on that relationship now?

Mr. Jackson. Yes, sir.

Mr. Kildee. On pages 1 and 2, you make the point that the contract and the BIA schools should be treated differently. Would this different treatment extend to the funding for the contract schools and the BIA schools?

Mr. Jackson. One of the two other gentlemen can answer that question.

Mr. Pearson. Mr. Chairman, in certain cases that will affect the funding. There will be testimony, I think, after our panel, that contract schools will be speaking directly with relation to that issue, and I prefer to leave the details to them, because they are in a better position to give you specifics on that than we are. We gave one example in the testimony where there was a difference. Part of it is in the funding process, itself. The contract schools have to go out on contract and credit arrangements and don't have any capital to fall back on compared with Bureau schools, and this can affect them seriously, but, as I say, they will go in more detail.

Mr. Kildee. Do you know if the tribe supports this different funding for the contract schools and BIA schools? Is there any official position of the tribe on that?

Mr. Pearson. This is the most official position at this point of the education committee, and you have to understand in the tribal organization that there is an education committee plus the tribal council. We can say it for the education committee but not the council.

Mr. Kildee. That is the position of the education committee.

Mr. Pearson. Yes, sir.

Mr. Kildee. Can you pinpoint any sections where tribal governments have been excluded from what you call on page 2, the key review and decision processes? Are there any specific instances you can supply for the record?

Mr. Pearson. Yes, Mr. Chairman. Within the regulations, for example, under functions, on page 29835, for example, section 31(b)(7) implementing procedures, where under (A) it states: "The Assistant Secretary for Indian Affairs shall," and there are a number of implementation functions there where a tribal review and approval process would be, I think, warranted.

And throughout the regulations there are a number of decisions being made by the Assistant Secretary and the Director, key education policy decisions, where it is either one or the other or both making the decision without some sort of public input into it, and also without the tribal council review and approval process being put in.

Sometimes there was a recommended consultation process, but we feel there should be a stronger process such as review and approval.

Mr. **Kildee**. Mr. Lovesee.

Mr. **Lovesee**. Could we go into perhaps more detail on that from the standpoint of either submission for the record or work with the staff to pinpoint those specific points?

Mr. **Pearson**. Yes, we could, and I think we will have to work on specific points in here. I haven't outlined them all in a summary sense, but yes, we could.

Mr. **Kildee**. We are still trying to get a message to the President, so I will run over again. Does either counsel wish to ask questions?

While I am gone, the counsel will be free to ask questions, and I will be right back, then.

Mr. **Lovesee**. There are several points that I would like to ask. On page 2 you make a statement, and I quote, "that careful consideration should be given to planning the sequences of a future foundation for Indian education." Could you perhaps elaborate on that particular statement?

Mr. **Benally**. Mr. Lovesee, I think that goes very much in the part of Indian education policies that were developed. It is quite difficult to go through the regulations trying to pinpoint or to say which direction that this whole thing wants to go, because at the same time, we are referring to tribes and at the same time referring to schools, school boards and students throughout this whole section under policies.

What I want to say is, address it more specifically, more in a sequential format, whether we are addressing students, or addressing schools.

Mr. **Lovesee**. Then do I understand you would be saying, Mr. Benally, there should be some type of institutionalized review process set up so that the consultation between the Bureau and the tribes is an ongoing function, as opposed to having the regulations as a final product and that being the end? There should be an evolving situation?

Mr. **Benally**. Yes.

Mr. **Lovesee**. Should that be conducted through continuation of the task force method or mode of operation, or is there another method that would be better?

Mr. **Benally**. For the time being, I imagine it would be better through the task force, but, again, it is very important that we be involving the affected tribes, or the tribes as a whole.

Mr. **Lovesee**. Another one of the problems of the Navajo Nation, in looking at the regulations and in coming to their conclusions as to where they stand on them, involved information. Could you perhaps describe some of the problems that you encountered with respect to attaining information on the regulations and on the process itself?

Mr. **Pearson**. Mr. Lovesee, I think that also relates to what you were saying earlier about the task force. We had members on local task forces, but in most cases the chairman and the assistant chairman of those local task forces were Bureau people. Sometimes we received notification too late with respect to meetings and information that would help the task force and tribal staff members to make recommendations, was late in getting to us, whether that was sent through the chairman's office or to the task force, themselves. In some cases the task force didn't even meet. There were other instances where recommendations that were generated at the local task force level were changed by the time they got to the national task force, and there wasn't a procedure to track that information and feed it back to us so we knew what was happening.

I think we do need the task force certainly but also that information made available to key organizations within the tribal structure.

Mr. **Lovesee**. Was there any centralized local BIA authority through which information could flow, either to you or from you?

Mr. **Pearson**. There is such an organization, the area office, but again that didn't always work out in practice that that information was forthcoming or timely.

Mr. **Lovesee**. I have a specific question with respect to No. 8 on page 3 of your testimony. Would you elaborate on your concern that the school construction priority listing is weighted too heavily with respect to distance?

Mr. **Pearson**. Yes, I will answer that. We were not quite sure about responding with respect to the section on school construction, and that is what No. 8 relates to, which is at the end of the May 22 regulation, but we included an item here, and we do have more detail in the written materials that have been given to you.

In effect, what is happening, and I think the GAO investigation made a similar mistake, in that they were looking at just distance alone and put a heavy emphasis on this, but what you can end up with is, let's say, a school applicant has a certain ranking based on all the factors here in the construction guidelines, and yet there is a school that is close to them that has some empty seats, but that empty seat at the school may yet have a lower ranking than the applicant's school, and yet the only thing that is going to be looked at is the distance of the school and not the status of that school or a nearby school in terms of its engineering structure, age, education program, whether it is accredited, et cetera. That is what we meant by distance can't be a factor in itself. We need to look at other matters that are not specified in these guidelines. Other factors such as engineering standards and educational program standards are not taken into account and given the weight that distance is.

Mr. **Lovesee**. Do I understand you to say that in the instances where you do have a school which would have positions open, that that school should be fully utilized, and do I understand you to say that construction priority systems should take that into account, to the extent of lowering the construction priority of another school located in the proximity to such a situation?

Mr. **Pearson**. It may be that the school that is nearby should not even be considered as an alternative for the school that is trying to apply for modifications and new construction. If it is in such a bad shape that it, too, needs modification and construction, even though it has empty seats, it should not be held against the applicant to send the child there to get that filled up before they are given funds to build their own school or modify their own school.

Mr. **Lovesee**. If it is possible, can we take a break until the chairman comes back? He has one specific question I know he wants to ask and is extremely concerned about, and I feel that we can't continue at this point without impinging on that.

[Brief recess.]

Mr. **Kildee**. Thank you again for your indulgence. We voted to send the message. We have that over with now and can get onto the other parts of the agenda for today.

You mentioned that the rules and regulations really encourage dormitory-type schools more than the smaller day schools near the children's home. Could you indicate where in those rules and regulations you find that?

Mr. **Pearson**. Mr. Chairman, there will be in the material that has been submitted a sectional analysis whereby one of the national committee members for the allotment formula took actual data this year from all but about six of the Bureau schools in our area and worked out the allotments, worked out increases and gains and such as that, and ranked the schools in order of those that would receive the most funding, and what came out was the large dormitory schools were the ones that unilaterally were receiving the most money under the formula and the smaller day schools and dorms were a mixed situation; some made gains and some didn't, but they didn't do as well as the large dormitory situation.

So all the factors taken together tend to favor allotment awards to the dorm situation.

Mr. **Kildee**. I am sure it is not the intent—and I want to go into this more deeply—the intent certainly of the Congress, and I would hope the intent of BIA would not be to do that. I recognize that dormitory schools will generate more dollars but also dormitory schools require the expenditure of more dollars. My concern is that when you balance that generation of dollars and expenditures, whether that makes the formula equitable or not? Do you care to respond to that? I am only wondering.

Mr. **Pearson**. There is some evidence to indicate that the extra cost factor is not as real as it might appear, and again I am going to refer to particularly the Rockpoint School, which will be coming up on the next panel, and I think they may be able to answer in a better detail to the type of question you just asked. I think they go so far as to suggest that the dormitory situation can get by with a 1.0 rating rather than, I believe, a 1.4 rating, when other factors are taken into account. That is about the best I can respond to that at this point.

Mr. **Kildee**. So you question whether even though the intent might not be there, you question that the formula may indeed still do that, right?

Mr. **Pearson**. That is right, sir.

Mr. **Kildee**. Counsel can make sure we go in and look at that and see whether, despite the intent the formula in fact encourages that. We would not want that to be the case, and we appreciate you bringing that to our attention. We will look into it closely, and it would be very helpful if anyone who has any evidence that this formula is slanted would get it to us.

Mr. **Pearson**. Excuse me, I might add that this data is based, as I say, on actual data this year, whereas the task force was using projected data brought in from the schools for next year, and we know some of that projected data was slightly distorted where some school officials thought they would increase their allotment if they did distort the data. What we are submitting is actual data this year.

Mr. **Kildee**. That will be part of the material you have included in the record?

Mr. **Pearson**. Yes, sir.

Mr. **Kildee**. Do either minority or majority counsel have any questions of the witness?

Mr. **Lovesee**. No, sir.

Ms. **Vance**. No, thank you.

Mr. **Kildee**. Thank you very much again, and I hope I will be coming back to the Navajo Nation again. We again solicit your continuing input to this committee, so we can make this law really serve the needs of the Indian community. We appreciate your testimony here today.

Mr. **Jackson**. Thank you.

Mr. **Kildee**. We have a person here who has a transportation problem, and, without objection, we would like to take her out of order. Ms. Lorraine Misiaszek, executive director, Northwest Advocates for Indian Education, from Spokane, Wash. She has with her Maxine Edmo.

STATEMENT OF LORRAINE MISIASZEK, EXECUTIVE DIRECTOR, NORTHWEST ADVOCATES FOR INDIAN EDUCATION, SPOKANE, WASH., ACCOMPANIED BY MAXINE EDMO, TRIBAL EDUCATION CHAIRPERSON, SHOSHONE BANNOCK TRIBES

Ms. **Misiaszek**. First of all, I want to say we are pleased to be here, and I am sorry that the situation is such that we have to, or at least I have to—Mrs. Edmo may be able to expound more fully this afternoon in the time slot that you have accorded us.

But before I left, I wanted to talk about some specific areas. Even though we have not submitted written testimony, we request that we have time to submit our prepared material later on next week sometime.

Mr. **Kildee**. Yes, if you would do that, we will make that part of the record. Get it to us as soon as you can.

[Information retained in subcommittee files.]

Mr. **Kildee**. We would like to welcome Mrs. Edmo back to our hearings again.

Mrs. **Edmo**. Thank you.

Ms. **Misiaszek**. Affiliated Tribes of Northwest Indians Advocate for Indian Education—our organization has been in existence for the affiliated tribes since 1973; they are our parent body, and we are their educational arm. Mrs. Edmo is the president of our board of directors. Our directors are selected by the tribes in the four States that serve and that make up the membership of the affiliated tribes.

I personally am a member of the Colville Tribe, State of Washington. I have been involved in Indian education for a number of years, and I wouldn't hesitate to say 25 years, both at the tribal level, and I functioned also as a State director of Indian education for the State of Washington for a few years, and I also serve as consultant for the U.S. Office of Education for several of the national agencies.

I guess why I am saying this is that I want you to understand where I am coming from in the remarks I am making now. My remarks are coming really from a much broader perspective on the effect of this piece of legislation. For example, the questions that we from the Northwest must raise are, first of all, this question: In the process of developing a basic but comprehensive law for the education of Indian tribes, why did the Education and Labor Committee place it within the Elementary and Secondary Education Act? We would like to know just what the intent of Congress was in regard to this matter.

We feel that education is, and it always was, very close to the hearts of Indian people and an inherent part of our culture, since well before the birth of Christ. Had we not succeeded in retaining a small measure of control of our educational practices in the face of a constant and frequently cruel effort to eradicate our language and culture by well-meaning but misled assimilationists adhering to the melting pot theory, we as tribes and individual Indians, would have lost everything completely that makes our existence tolerable today. Education is that important to us.

In our concern we view this present act, Public Law 95–361, as a move in the direction of having Indian education eventually absorbed into the Department of Education completely.

Mr. KILDEE. On that point I think you are cognizant that the Congress spoke loud and clear against such a transfer supporting my amendment Wednesday night. I certainly concur that the place for these programs is within the agency that is entrusted with the fiduciary responsibility for the Indian tribes.

Ms. MISIASZEK. Yes, that was encouraging.

Last year and again this year, the tribes and Alaskan Natives, themselves, have demonstrated their overwhelming opposition to the attempt to transfer the BIA education to the Cabinet level of the Department of Education, and they all worked diligently to this end. As a consequence of devoting full attention and effort to defeat the transfer, little time was left to give adequate consideration to all the complex ingredients that went into the making up of Public Law 95–561, while on its way, on its development way, and on its way to passage.

It is true that field hearings were held, and that one or two of the committee members attended; the staff people attended pretty fully, those hearings. I think at that time we raised several major points that are now being discussed at some point or other with these groups of people testifying. I don't know what happened, whether the committee had not believed these were serious enough to have made changes in the proposed law at that time or not, but it seemed to have no great impact on the committee's final actions when this bill was passed.

Now, we do view this act and all the related preparation processes as a direct assault upon the principles of Indian self-determination.

We feel, and I hope we are wrong, we feel that this program is designed to fail. We feel that the law, itself, too specifically directs the Bureau of Indian Affairs to perform services in such detail within too tight a time frame and with a locked-in budget initially, that we think promotes a failure outcome for the joint tribal/BIA efforts.

Mr. KILDEE. I am not sure of your schedule exactly but I have to go for another record rollcall. I hope you can wait, I could go cast my votes and be right back. In the meantime, perhaps the two counsel could either ask questions or respond to some of your statements, and then I wouldn't miss your testimony. Will that fit your schedule?

Ms. MISIASZEK. Yes, we can wait.

Mr. KILDEE. I will be right back.

Do you want to ask some questions, Mr. Lovesee, or make some responses?

Mr. LOVESEE. I am not sure if the responses would be adequate at this time, but I will address one particular question that you did address to the subcommittee. Why was ESEA chosen as a vehicle? Actually, ESEA was not chosen as the vehicle; that is perhaps a misperception on the part of the witness. The Education Amendments of 1978 are the vehicle, and within those Education Amendments of 1978 were included amendments to ESEA, as well as amendments to Impact Aid, and amendments to several other laws. Essentially, I guess one could call the Education Amendments of 1978, a boxcar piece of legislation for the Education and Labor Committee. It was the major education legislation that was passed during the 95th Congress and it included just about everything that would come out of the Education Committee during the 95th Congress. That includes this particular section, title XI, as well as ESEA. However, the inclusion of it within the education amendment package does not transfer programs or impute the intent of Congress to even tie programs together. It simply is a legislative tool. For instance, Indian Education Act: 92-318, itself: was a part of the Education Amendments of 1972, and I think the subcommittee would be willing to supply other instances in which changes were made through the Education Amendment Acts.

As I say, I wanted to get that on the record from the standpoint of that particular question which you did address to the subcommittee.

As for the other questions or statements, I think perhaps it would be better if Mr. Kildee returned. We will wait for him to do so and we can then address them at that time.

[Brief recess.]

Mr. KILDEE. I have a 99.9 voting record in the Congress. I taught school for 10 years. I tell people in my real life I was a teacher.

Would you please continue?

Ms. MISIASZEK. To carry on, the very nature of true Indian education is founded upon the ages-old philosophy that it is a learning experience from birth to death and tied closely to the family, tribe and the land. This differs so significantly from current American education beliefs and practices that an impasse is reached almost immediately where integration of the two is attempted. Now, I am talking about Office of Education programs and Indian education programs.

The resulting effect is that the control shifts into the hands of the larger more powerful entity, which is the Office of Education.

We experience this now with title IV of the Indian Education Programs in the Office of Education and Part A of Public Law 95-561.

Because I have had the good fortune to have been around the field of education for as many years as I have, I was involved in the beginning in the formulation of what is now title IV, and the intention of that law at the time it was passed is far different from the way the law today is applied, and we can see the influence of the general Office of Education eroding and changing by their practices of title IV that we had envisioned before it passed into law and became effective.

As a result, the difference in how this law is implemented by the Office of Education and the BIA presents a sharp contrast. The BIA is working very closely with Indian tribes in developing their sections into a more or less acceptable end-product to meet the time lines for publishing regulations in the Federal Registry.

On the other hand, the Office of Indian Education in HEW has yet to make their first concrete effort toward undertaking a meaningful consultation with Indian tribes.

Perhaps the most crucial issue that reaches to the heart of the matter and is yet unresolved is who is eligible as an Indian to receive services under this act.

We have, and must, deal with two definitions within the same title. Indian tribes recognize only one definition, that which is currently followed by their trust agency, the Bureau of Indian Affairs, in dealing with tribes.

HEW, the Office of Indian Education's definition of an Indian has allowed non-Indians to dominate the delivery and receipt of services to the point that real Indians must look elsewhere for funds to support their educational efforts. And if this key issue remains unresolved, I can only see a future of trouble for this bill. And that is why I mentioned earlier that it seems to me because of all the other points that we are concerned with, the locked-in budget, the too-tight time lines, not allowing Indian schools and Indian programs a realistic transitional period, not allowing them money to make this transition so that we will program for success in our effort, all of these points, I feel, make up the pattern that if they are not changed, if somehow Congress does not respond in allowing or providing for additional time in the implementation of this program and adequate funds to do such things as to train school boards—for the simple reason there are other concerns that touch upon school boards, for example. There have been two decisions in bilingual education. There is the *Woods* v. *Strickland*—I am not sure that is the correct title, but that was a fairly recent decision, which allows school board members to individually be sued if they knowingly or willingly allow discrimination in their school. These are the kinds of things our school boards and our tribal communities are not aware of, but yet they have to respond and live under and be subjected to this kind of possibility.

I think they need some intensive training. It is going to take a great deal of money, and they must know what they are dealing with when they have to take over.

These are the kinds of things I feel that we out in the field are going to be fighting with and coping with in the years to come, so I don't think it is unreasonable to ask at this time that this committee give us an extension of time to implement our programs. Some of them don't need that, but quite a number of the sections do need that additional time and additional moneys to do an adequate job.

Now, I am going to dwell on more points in greater detail in my written testimony that I will be submitting to this committee.

Mr. KILDEE. All right. That will be made part of the formal record of the hearings, then.

We appreciate your testimony. Are you suggesting that the Indian education programs in the Office of Education of HEW should be transferred out of that office into the BIA?

Ms. MISIASZEK. This is what some of the tribes would like to see happen.

Mr. KILDEE. Title IV serves a broader constituency than the general definition we give for Indians under the BIA. For example, in some of our urban areas there are Indians who would not meet the definition of the BIA, yet can be served under title IV. What would you have done for those Indians who would not meet the BIA definition?

Ms. MISIASZEK. I think from the tribal perspective an Indian is a member of the tribe, recognized member of the tribe, or a member of the enrolled member, their child. I think we dealt with this originally, and our original intentions with title IV was not to have such a loose definition of an Indian, because we knew what was going to happen if they did not have a tightened definition, but we were overruled somewhere along the line, and they came up with this loose definition.

As a result, if self-determination has any meaning at all, and the tribes, themselves, have a right to determine who their members are, and who is Indian, then I think that they will deal with this problem fairly to make sure those needing those services will get them, because we don't forget for a minute that almost all of those students are students receiving the full benefit of our public school system. They are not Indian or culturally—I won't say all of them, but a great number of them are not culturally oriented to their tribal ways. They have been born and raised and lived all of their lives in an urban setting. However, that ought not deny them the privileges of the programs offered especially for Indians.

But I think that determination ought to be left up to the wisdom of the tribes since the foundation of title IV originally, way back in those days when Robert Kennedy made his visits and studies and came up with his report on the Indian educational national disgrace, used tribal figures, tribal situations to lay the foundation for the justification of this law, so I think we have to eventually return back to the tribes and get things straightened out again.

Mr. KILDEE. Mr. Lovesee, do you have questions?

Mr. **Lovesee**. No, sir.

Mr. **Kildee**. We appreciate your testimony and, as I say, your entire written testimony will be a part of the official records of these hearings. We hope you, too, will keep in contact with this committee, because the only way we can serve the needs of the Indian community in this country is through input. So I welcome your continuing input.

Ms. **Misiaszek**. Thank you. And I do want to thank you all; you have really been very kind to let me come in at this time so I won't have to walk back to Spokane, Wash.

Mr. **Kildee**. Thank you very much.

Ms. **Edmo**. Will I have time to come later at the scheduled time?

Ms. **Misiaszek**. The scheduled time this afternoon should have included Maxine Edmo.

Mr. **Kildee**. If you have a statement, you may make it now?

Ms. **Edmo**. It is going to be quite lengthy. I can, though.

Mr. **Kildee**. Before we do that, let me put a question to the group here. I am a Democrat with a small "d," too. How many here would prefer to take a half-hour break for lunch, and how many would prefer to go right on through without taking a break for lunch? It doesn't make any difference to me at all.

How many would rather go through without taking a break for lunch? That is a majority, so we will not break for lunch.

Do you prefer to make your statement now?

STATEMENT OF MAXINE EDMO, TRIBAL EDUCATION CHAIRPERSON, SHOSHONE BANNOCK TRIBES

Ms. **Edmo**. Some of my main concerns, I also serve on the Intermountain School Board. I have some concerns on the allotment formula and the impact of the allotment formula.

The flaws that we see in the allotment formula rules and regulations, section 1128, we feel circumvents tribal governments in all processes. The base formula of 1800 is insufficient. Key areas of education are omitted such as early childhood education, vocational education, gifted and talented, libraries, et cetera.

We understand that the Standards Task Force is including early childhood and vocational education for high schools in the standards being developed. We are recommending that the above programs be included in the formula as early as possible to allow for kinks to be worked out rather than waiting for future funding cycles to work these programs in.

Once existing programs are eliminated, then there is no guarantee that these programs will be started up again in 1 year.

Existing staff that are trained and have the expertise in these areas will be hard to replace once a reduction in force (RIF) is started. Time frames of different sections of the law in title XI of 561 have created obstacles that are impossible, I feel, for BIA staff, school boards, and tribes to overcome.

By that I mean the time lines. Johnson-O'Malley was short. I was chairman of that task force and we have all kinds of problems.

In standards, a year from now they are to develop theirs and that comes a whole year after the RIF has already been done.

The reason I mention that is in our instructional program at Intermountain School, we have 96 positions in the instructional program there and under a plan A, we had several plans that were submitted by our staff and we felt the plan A would be the least restrictive and we have a position reduction of 35 positions. That means our budgets will be reduced and there is no way, once a RIF has started, and we just have 2 months to do all of this in before school starts again. It is impossible.

The civil service concerns are that the senior members, those that have been employed the longest, will be employed and those that have a lower GS rating will be the first to go. Some of these are real good teachers.

So that is a concern and we feel that for boarding schools that is a major concern. That is just in our instructional program.

I might add that the Intermountain School has a very good vocational program from the drafting—the students build the school during the year. I mean, they build a house from the planning stages all the way to the end, the plumbing, the carpentry work, the wiring, the whole thing. That has not been considered in the formula.

I have a whole bunch of the rationale. We have the breakdown on the teachers. We would have to just keep the required classes that the State of Utah is required so that the students can get their credits.

We have done away with a lot of our electives. I am referring to what we did as of June 7 prior to coming here to this meeting.

So staff reduction is a big concern now. That is just the instructional program.

Now on the guidance program, we have cuts, a total cut of $814,368. We have 16 dorms that we will be putting the students in this fall and 50 students to each dorm. That is a lot of students. Originally we had 45. So we are trying to squeeze more of these students into these dorms.

Like I say, the RIF is really going to be bad. I have a breakdown also of the impact of the guidance program, just how many staff reductions we will have there. That is, as of that date. I hope that Congress will do something about that.

So I would like to submit these at this time and I would hope that you would allow us to submit further testimony from the staff and our executive director at Intermountain School.

Mr. KILDEE. Yes, if you could get that in as soon as possible to us.

Ms. EDMO. Probably Monday, if I can do that when I get back, but I will submit some of these things now. I don't have extra copies but this will give you an idea of what we are faced with. It has the impact of staff reductions.

Mr. KILDEE. If you need those back, we can get those copied.

Ms. EDMO. That would be good.

The other grave concern is, that is just a short overview, but another concern I have regarding almost the same thing and this is the reduction in civil service positions for BIA programs.

Mr. KILDEE. Counsel would like to ask a question at this point.

Mr. LOVESEE. You mentioned 35 positions will be lost out of a total of 96 people in the instructional programs.

Ms. EDMO. Yes.

Mr. LOVESEE. Can you give me an idea of what the total budget is now and what the proposed budget is under the formula?

Ms. EDMO. I believe we were receiving a cut of $2 million. Let me see if I can find that one.

I forgot to mention our solo parent program, too. That is an important function that will be discontinued if we don't get funding for that. That is where unwed mothers come in with little children and we have a place for them to come, and then they complete their education and training.

There are many other things that were not included in the allotment formula that will be excluded. One was a security program that we contracted for. That will be cut probably in half. Let's see if I can find that one. Maybe I could submit it when I finish.

Mr. LOVESEE. The reason I was asking was——

Ms. EDMO. I think I have it here. Yes, what was the question?

Mr. LOVESEE. The question was, could you tell me approximately what the total budget is with respect to Intermountain and what the proposed budget is with respect to the reduction for formula funding?

Ms. EDMO. According to what we were told, the schools were limited to a loss of, right now, we had a loss of 29 percent. With the adjustment that was made, then, the adjustment estimated entitlement is $4,819,760. This is a national school that we are talking about. There are approximately 800 students that attend this school.

I believe the budget was around $6 million. I don't have the exact figures but that is an estimate on the total that we had.

But this is the adjustment, estimated entitlement that we received as of June 6, 1979. If you want a copy of this, I would be glad to provide this also.

Mr. LOVESEE. Please, if you would.

Ms. EDMO. I would like to have this back because this is my only copy. So there are many concerns that we have concerning the allotment formula.

Also, I am concerned about the BIA budget. I have a copy of the budget justification and I understand there were budget cuts in this that were submitted. This is a concern. That is why we feel that it is not fair that we have to be locked into this formula. They don't even consider need.

In all of these special programs, you can't be—these special programs that I talked about, they made out like they were not existing.

So those are major concerns. If it was at least maybe a 10-percent cut, it would not have been so bad. The phase-in should have not been so stringent. Like I said, the standards, the time line on that is a year later and it really makes a negative impact on the whole thing. One year later you cannot do much after the RIF is already done.

Mr. KILDEE. The committee, I think, certainly concurs with you on particularly the Solo Parent program. It is a very important program and I concur with your evaluation of that.

I will personally look into that.

Ms. EDMO. The other thing I wanted to get into was—I have one of each of these copies and I could submit these for the record—but what I am concerned about is implementing these education laws that we are dealing with.

On June 4 I received a copy from our local superintendent on a list of proposed personnel cuts. One of these was an education specialist at our agency at Fort Hall. We have one BIA person right now working in education. If this is cut, just as it was stated here, with all of these cuts that are planned, then who is supposed to work on all of this? Who is to help us out with TA and all these things?

So this is a letter I would like to leave for the record. It is a copy of our letter from our superintendent showing the position cuts and this is a letter that I took to the tribal council where we are opposing these cuts with letters that went to the area office.

I would like to state one thing: Referring to the chart of the distribution of position ceilings as noted for position management, for the last few years we feel it is very unfair to some agencies the way position ceilings have been monitored.

Over the years some agencies have received a steady increase over the years while some have had a steady decrease like ours. At Fort Hall we started out with 99 positions in 1971 to a current level of 63. We see these reductions as termination efforts and thereby strongly oppose the efforts to reduce permanent and part-time positions.

Other agencies have not suffered these reductions as BIA has. The other agencies are not responsive to Indian needs such as HEW as mentioned earlier. These negative trends should be reversed. At this rate we will have no BIA and that is what we are concerned about.

So that I would like to submit those for the record and also this copy of the area manpower committee meeting dated May 14, 1979 of this year. That part that I would like to read is:

> The full-time permanent allocations and required reductions by operating locations would be as shown on the attached position statement report. The Manpower Committee would from May 15 control distribution and allocation of all other than full-time permanent positions.
>
> Accordingly, as these positions are vacated, they will be abolished. Requests to reestablish and fill will be accompanied by full justification for consideration by the Manpower Committee. All outstanding OTF, TP vacancies ar being abolished and where appropriate SF-52s are being returned to their originating office for reconsideration and resubmission in accordance with 2(A) above.

They state to please advise no later than June 1 of your plan for reaching your allocation. This shows the allocation that is attached. I would like to submit this also for the record. These are major concerns that our tribe has.

There are many other areas that I am concerned about. Specifically, one of the things that I am concerned about is the Technical Assistance Centers as mentioned in 561 under, I believe, it is part C, I am not sure.

But I don't feel that Indians should be mandated to fit into regional centers and areas that we don't want to fit into. Again, we are dictating to tribes what they want to do. Right now we receive services from the Coalition of Indian School Boards. We have a contract school and we want to continue that relationship.

I know other areas receive services from them and they will not be able to do so if this trend continues. If we are locked into a region and we don't want to fit into it, we kind of feel that is kind of a dictatorship policy and we disagree with that. We don't want to go through a State system that has been not responsive to Indian needs.

Like we stated, the Kennedy report was submitted using our statistics from Fort Hall Reservation and there is no guarantee that we get those funds. The State system has not been responsive. We feel that section is going back to that same thing. So we want to see that reversed.

There are many other areas that we disagree with and we will submit further testimony as soon as I get back. I have not had time to work on it. I guess if there is any other questions, I will be glad to answer any questions.

Mr. KILDEE. Thank you very much. We appreciate your testimony and we appreciate having you here again before this subcommittee. We trust that you will be coming back again. I intend to keep this oversight responsibility active and we appreciate any information that you may have for the committee.

We will make copies of these letters for you.

Does minority counsel have any questions?

Ms. VANCE. No, sir.

Mr. EDMO. We will submit further testimony in writing.

What is the deadline on that?

Mr. LOVESEE. Within a week probably. Of course, I know the mail situation. If we get it within 2 weeks, it will be included in the record and be considered.

[The information follows:]

Administration

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
FORT HALL AGENCY
FORT HALL, IDAHO 83203

Rec'd 6/5/79 [illegible]

June 4, 1979

M[illegible]randum

T[illegible] Area Director, Portland Area
Attention: Assistant Area Director for Administration

F[illegible] Superintendent

Subject: List of proposed personnel cuts.

Attached herewith is a copy of a memorandum from the Project Manager for the Fort Hall Irrigation Project, objecting to and giving good justification for the taking of any more positions from the Irrigation Project. We also wish to register our objections to the taking of any more positions from the Fort Hall Agency.

However, if the action must be done, and as per your memorandum of May 17, 1979, the following three positions are identified as directed.

1. Position No. A13.502A, GS-1710-11, Education Specialist. We anticipate this position will soon become vacant through a disability retirement or resignation.
2. Position No. M56.2101A, GS-810-12, Supervisory Civil Engineer.
3. Position No. B23.706A, GS-083-6, Police Officer (Lieutenant).

Maxine For Info! [illegible]

W J McDonald
Superintendent

Enclosure

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Office Memorandum • SHOSHONE-BANNOCK TRIBES, INC.

TO : Superindent Wyman McDonald and Area Director Vince Little **DATE**: June 8, 1979

FROM : Tribal Education Committee Maxine Edmo

SUBJECT: List of proposed personnel cuts.

Received a copy of your Memorandum dated: June 4, 1979. We are here by opposing this action for the following reasons. The Tribal Education Committee is very concerned about the recent trend in the Bureau of Indian Affairs to phase out or reduce the number of full time permanent positions with in the Bureau of Indian Affairs.

Due to the recent efforts on the National scene to transfer BIA Education over to the proposed Department of Education then there should be all the more reason to keep as many BIA Education positions at the local level in BIA Education.

The passage of Public Law 95-561 the Amendment to the Elementary and Secondary Act Reauthorization Act, could be the highest impact education legislation passed during the 95th Congress that President Carter signed into law in November of 1978. Title XI refers to Indian Education Section.This orders massive reform of all aspects of BIA Education and the support services to its education programs. With these in mind then to lose more Civil Service Position in BIA Education would be devastating to the Tribes involved.

Currently our local education staff are over whelmed with existing contracting proceedures in various Federal Programs that need to be monitored and managed on a day to day basis. Adult Education, Higher Education, Special education of various forms are just too much for one person to handle. The work of various Task Forces under P.L. 95-561, will make many changes in Indian Education. Line authority, Personnel, Allotment Formula, Policies, Proceedures and Practice, etc. just to name a few, will mandate more work at the local level.

The Tribe is currently working on a Comprehensive Education Plan to Streamline our programs. The Adult Education postion is required to improve these programs.

Please reconsider your proposed reduction of the Civil Service position at our Agency and also the Area Office. Currently there is no Adult Education position in the Area Office due to a previous phase out. We feel this is sad to have this happen in an Agency that is supposed to be responsive to Indian needs.

Referring to the chart of the Distribution of Position ceilings as noted from position management print out for the last few years, we feel that it is very unfair to some agencies the way position celings have been monitored. Over the years some agencies have received a steady increase over the years while some have had a steady decrease like ours. At Fort Hall we started out with 99 in 1971 to a current level of 63. We see these reductions as termination efforts and hereby strongly oppose the current efforts to reduce both permanent and part time positons. Other Agencies have not suffered these reductions. The other agencies are not responsive to Indian needs such as HEW ect. This negative trend should be reversed

cc:'s: All Branch Chiefs
Chairman,
Return 1 to me!

Need to discuss on Friday at Staff meeting.

RECEIVED
1979

RECEIVED

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
PORTLAND AREA OFFICE
POST OFFICE BOX 3785
PORTLAND, OREGON 97208

IN REPLY REFER TO:
Personnel
Management

MAY 17 1979

Memorandum

To: Assistant Area Directors, Superintendents and Project Engineer

From: Area Director

Subject: Area Manpower Committee Meeting, May 14, 1979

The Portland Area Manpower Committee met in regular session on Monday, May 14, 1979, to review authorized FTP position ceiling distribution and control of other than full-time permanent positions. In consideration of known restrictions, categories of exempt positions, and deadlines for accomplishment, it was determined that:

1. Full-time permanent ceiling allocations and required reductions by operating location would be as shown on attached position status report.
2. The Area Manpower Committee would, from May 14, 1979, control distribution and allocation of all other than full-time permanent positions.
    a. Accordingly, as these positions are vacated, they will be abolished. Requests to re-establish and fill will be accompanied by full justification for consideration by the Manpower Committee, and;
    b. All outstanding OTFTP vacancies are being abolished, and where appropriate, SF-52's are being returned to the originating office for reconsideration and resubmission in accordance with 2.a. above

Please advise me not later than June 1, 1979 of your plan for reaching your allocation.

Acting Area Director

PORTLAND AREA OFFICE
BUREAU OF INDIAN AFFAIRS

STATUS OF POSITIONS AS OF MAY 11, 1979

Forestry Positions Exempt from consideration

	PERMANENT								
						OTHER THAN FULL-TIME			
	ALLOCATION OLD	ALLOCATION NEW	638 BANK	F/T VAC	REDUC REQUIRED	PERMANENT FURLOUGH	PERMANENT PART-TIME	PERMANENT INTER	TOTAL ON BOARD OTFTP
PORTLAND AREA . .	181	171	-	14	10	8	15	3	26
CHEMAWA	102	86	-	20	16	35	0	2	37
COLVILLE.	133	126	-	26	7	44	1	0	45
FORT HALL	63	60	-	5	3	33	1	0	34
NORTHERN IDAHO. .	56	53	-	3	3	11	1	2	14
UMATILLA.	26	25	-	1	1	6	1	0	7
WAPATO.	102	93	-	7	9	2	0	0	2
WARM SPRINGS. . .	82	78	1	10	4	9	3	0	12
W. WASHINGTON . .	140	132	-	25	8	5	12	4	21
YAKIMA.	159	150	2	21	9	5	1	0	6
SPOKANE	31	30	1	2	1	22	8	0	30
	1075**	1004	4	134	71	180	43	11	234

FY 79 AUTHORIZED CEILINGS
Permanent Full-Time
Position Ceiling. 1006
Employment Ceiling. . . 946

ACTUAL STATUS AS OF 5/11/79
Permanent Full-Time
Positions allocated. 1075
Employment on Board. . . . 943

PROJECTED INSTRUCTIONAL PROGRAM IMPACT

IMPOSED BY IMPLEMENTING FUNDING FORMULA

POSITION TITLES	NO. OF PRESENT POSITIONS	PRESENT ALLOCATION	REQUIRED STAFF MARGINAL FOR PROGRAM COVERAGE	FY 79-80	PROJECTED SERVICE COST ELIMINATED	IMPACT OF STAFF REDUCTION
Teachers, English	10	$206,999.00	7	144,893.00	$62,117.00	Reduction in positions responsible to develop the communication skills of under achievers is a critical loss to these students. Reduction in the number of present positions has the effect of increasing the teacher pupil load on the remaining teachers. This increase if it becomes excessive will hamper the teachers efforts to individualize the learning for each student. Students who need extra help from the teacher may not get it. Resulting large classes could over crowd our small rooms. Our students learn best when there is some project type learning in the classroom. Crowded classes will reduce the number of experience based learning methods a teacher can employ. This reduction may also handicap our capability to develop a more viable goal based curriculum.
English, (Sub) GS-5	1	12,000.00	0	0	12,000.00	Reduction in staff but not students will result in fewer times when supervisors and teachers will be able to substitute in the absence of the regular teacher.

PROJECTED INSTRUCTIONAL PROGRAM IMPACT

IMPOSED BY IMPLEMENTING FUNDING FORMULA

POSITION TITLES	NO. OF PRESENT POSITIONS	PRESENT ALLOCATION	REQUIRED STAFF MARGINAL FOR PROGRAM COVERAGE	FY 79-80	PROJECTED SERVICE COST ELIMINATED	IMPACT OF STAFF REDUCTION
Soc. Studies	7	$144,893.00	5	$103.484.00	$41,409.00	Staff reduction made it necessary to drop ½ unit of our school Social Studies requirement. This also limits our capability to offer electives in the areas of Indian History, Issues, Tribal Government, College Orientation, Psychology and other courses popular with students.
Science	6	124.194.00	4	82,796,00	41,398,00	By utilizing the services of another teacher in another subject area part time, we will be able to meet minimal science requirements, however, because of the pupil ratio imposed by this reduction science will become less projected orientated and more paper/pencil orientated.
Soc. Studies (Sub)	1	11,907	0	0	11,907.00	Reduction in staff but not students will result in fewer times when supervisors and teachers will be able to substitute in the absence of the regular teacher.

PROJECTED INSTRUCTIONAL PROGRAM IMPACT

IMPOSED BY IMPLEMENTING FUNDING FORMULA

POSITION TITLES	NO. OF PRESENT POSITIONS	PRESENT ALLOCATION	REQUIRED STAFF MARGINAL FOR PROGRAM COVERAGE	FY 79-80	PROJECTED SERVICE COST ELIMINATED	IMPACT OF STAFF REDUCTION
English Aides	3	$ 62,624.00	1	$ 10,643.00	$ 51,981.00	Watering down of the individualized help to a studentbody that represents an 80%/or more years of learning delays. Return to more large group, lock step instructional methods necessitated by lack of resources to provide individualized and contract instructional units.
Teachers, Math	5	103,495.99	5	10,484.00	0	With 94-142 and Title I support, a viable math program can be offered.
Math (Sub)	1	11,907.00	0	0	11,907.00	Refer to (English Substitute) Justification.
Physical Education & Athletics	6	124,194.00	5	103,484.00	20,710.00	Reduction of coaching staff will severly handicap our ability to prepare teams to successfully compete in regional competitions. This already is a serious problem suggesting withdrawing from athletics. This reduction may necessitate that decision. Title 9 requires equality for both male and female. This reduction could possible complicate that legal requirement.

PROJECTED INSTRUCTIONAL PROGRAM IMPACT
IMPOSED BY IMPLEMENTING FUNDING FORMULA

POSITION TITLES	NO. OF PRESENT POSITIONS	PRESENT ALLOCATION	REQUIRED STAFF MARGINAL FOR PROGRAM COVERAGE	FY 79-80	PROJECTED SERVICE COST ELIMINATED	IMPACT OF STAFF REDUCTION
Training Instructor GS-5	1	$ 13,657.00	0	0	$13,657.00	This position directs swimming pool activities during the school day and during the evenings. Elimination of this position will hamper the availability of the swimming pool to our students during their leisure time and eliminate the possibility of developing swimming teams to enter in swimming competition.
Physical Education (Subs)	1	$ 11,907.00	0	0	$11,907.00	Reduction in staff but not students will result in fewer times when supervisors and teachers will be able to substitute in the absence of the regular teachers.
Cultural Arts	6	$124,194.00	3	$ 62,097.00	$62,097.00	Reduction of this highly relevant program limits the schools ability to develop the creative Indian art talent of our students. The Therapeutic value will not be available to emotionally handicapped students who need it. The development of each students talent in music and art will be severly handicapped.

PROJECTED INSTRUCTIONAL PROGRAM IMPACT

IMPOSED BY IMPLEMENTING FUNDING FORMULA

POSITION TITLES	NO. OF PRESENT POSITIONS	PRESENT ALLOCATION	REQUIRED STAFF MARGINAL FOR PROGRAM COVERAGE	FY 79-80	PROJECTED SERVICE COST ELIMINATED	IMPACT OF STAFF REDUCTION
Reading	4	$ 82,796.00	3	$62,086.00	$ 20,710.00	Most of the students entering Intermountain are in need of developing their reading skills. English teachers cannot provide remediation assistance for students and still do a satisfactory job of teaching English. Students needs are such that a separate class in reading is needed. School policy requires that each student achieve at the 8.0 minimum level before graduation.
Reading Educational Aide	2	23,814.00	2	21,286.00	0	
Teacher, Health	1	20,699.00	1	20,699.00	0	Required for state certified program.
Librarian	1	20,699.00	1	20,699.00	0	Necessary for state and Northwest certification.
Illustrator	1	14,750.00	0	0	14,750.00	Elimination of this position reduces our ability to produce attractive curriculum materials and PR publications advertising our school and its activities.
Ed. Tech, Media	2	24,000.00	0	0	24,000.00	Elimination of these positions leaves no one to attend to media supply and equipment issue, equipment inventory control, and repair.

PROJECTED INSTRUCTIONAL PROGRAM IMPACT
IMPOSED BY IMPLEMENTING FUNDING FORMULA

POSITION TITLES	NO. OF PRESENT POSITIONS	PRESENT ALLOCATION	REQUIRED STAFF MARGINAL FOR PROGRAM COVERAGE	FY 79-80	PROJECTED SERVICE COST ELIMINATED	IMPACT OF STAFF REDUCTION
Teacher, Business Education	2	$ 41,398.00	2	$ 41,398.00	0	This program staffing is adequate.
Industrial Arts & Teacher, Home Economics, PA	8	165,592.00	5	103,473.00	$ 62,119.00	These classes are theraputic in releaving student emotional stress and provides career exploration. Since students need opportunity to develop career goals and relieve emotional stress in wholesome ways, the loss of these programs results in denying a need.
Teachers, Home Economics Vocations	6	124.194.00	5	103,473.00	20,721.00	This would reduce program offerings by 1 vocation and Consumer Education programs as well as 6 electives including: Homemaking III Cr. Stitchery Home Beautification Parent Training
Training Instructor GS-7, Cosmetology	1	14,750.00	0	0	14,750.00	These electives are an important part of a practical hands on curriculum designed to blend the practical with the Theraputic needs of our students

PROJECTED INSTRUCTIONAL PROGRAM IMPACT

IMPOSED BY IMPLEMENTING FUNBING FORMULA

POSITION TITLES	NO. OF PRESENT POSITIONS	PRESENT ALLOCATION	REQUIRED STAFF MARGINAL FOR PROGRAM COVERAGE	FY 79-80	PROJECTED SERVICE COST ELIMINATED	IMPACT OF STAFF REDUCTION
Education Tech GS-5, Cons. Ed.	2	$ 23,814.00	0	0	$ 23,814.00	The elimination of this program (Consumer Education) results in eliminating a large portion of our curriculum that is highly practical and relevant to state required training in consumerism.
Educational Aide GS-4, Cons. Ed	1	12,203.00	0	0	12,203.00	
Night Attendant Cons. Ed.	1	10,877.00	0	0	10,877.00	
Vocation Instructo	10	206,990.00	8	$165,570.00	41,420.00	One of the very few exemplary BIA Programs will be reduced to the mediocirty of the BIA indifference toward the development of maketable skills during the high school years. When the investments of 25 years in developing a progressive approach toward graduating an employable student are disected by a simplistic funding formula, those responsible for its unadjusted implementation disregard the impact on the lives of those who are denied the services.
Training Instructor GS-5, Print Shop	1	12,000.00	1	12,000.00	0	This position will enable the print shop to maintain a minimum level of production and teaching for the normal enrollment.

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PROJECTED INSTRUCTIONAL PROGRAM IMPACT

IMPOSED BY IMPLEMENTING FUNDING FORMULA

POSITION TITLES	NO. OF PRESENT POSITIONS	PRESENT ALLOCATION	REQUIRED STAFF MARGINAL FOR PROGRAM COVERAGE	FY 79-80	PROJECTED SERVICE COST ELIMINATED	IMPACT OF STAFF REDUCTION
Aerospace Instructors	3	$ 40,000.00	0	0	$ 40,000.00	This is a cost sharing program that provides a valuable leadership and career orientation. Student potential for school to military adjustment program will be eliminated. A military career remains one of the very few avenues available for a minority member to move from a low to middle class status.
Clerk Typist	2	$ 18,964	4	$ 37,928.00		The clerical requirements of the instructional program will be heavier due to reduction in administration and teachers and the increase in special program activities and curriculum development. Full clerical assistance is critical in meeting the demands of the new academic day.
Driver Education	2	41,398.00	1	$ 20,699.00	$ 20,699.00	Necessary at present level. Utah State Requirement.

PROJECTED INSTRUCTIONAL PROGRAM IMPACT

IMPOSED BY IMPLEMENTING FUNDING FORMULA

POSITION TITLES	NO. OF PRESENT POSITIONS	PRESENT ALLOCATION	REQUIRED STAFF MARGINAL FOR PROGRAM COVERAGE	FY 79-80	PROJECTED SERVICE COST ELIMINATED	IMPACT OF STAFF REDUCTION
Instructional Sub-Total	96	$1,843,852.00	61	$1,232,099.00	$630,717.00	This amount is equal to a 20% reduction in academic supervision. This amount will enable us to maintain objectives and requirements as set by law and school administration. Further reduction in the knowledgeable subject area leadership will practically eliminate our probability of developing the goal based mastery learning curriculum as presently planned.
Formula Allocation		2,360,898.50		2,360.898.50		
Estimated Balance Remaining for: –		517,046.50		1,128,799.5		
Instruction Services						
Materials & Supplies						
Travel						
Equipment						
Administrative Services						
Materials & Supplies						
Travel						
Equipment						
Food Service						
School Board						

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GUIDANCE AND RECREATION

11 dorms.

STAFF	CURRENT PROGRAMMED G.S.	Number of each	G.S. Step 10	Total Cost		PLAN #1 Number of each	Total Cost		CUT Number of each	Total Cut	50 students per dorm.. [illegible]
Director of Guidance	12	1	$30,017	$30,107		1	$30,107			0	
Secretary (DMT)	5	1	13,657	13,657		1	13,657			0	
Homeliving Specialists	11	3	25,041	75,123		3	75,123		0	0	
Secretaries	3	3	10,877	32,631		2	21,754		1	$10,877	
Counselors	9	10	20,699	206,990		8	165,592		2	41,398	
Social Workers	9	3	20,699	62,097		0	0		3	62,097	
Social Services Assistant	7	2	16,920	33,840		2	33,840		0	0	
Supervisory Education Technicians (Dormitory Managers)	6	10	15,222	152,220		8	121,776		2	30,444	
Educational Aids	4	65	12,208	793,520		48	585,984		17	207,536	3 dorms
Night Attendants	3	30	10,877	326,310		24	261,048		6	65,262	

GUIDANCE AND RECREATION (continued)

STAFF	G.S.	CURRENT PROGRAMMED Number of each	G.S. Step 10	Total Cost		PLAN #1 Number of each	Total Cost		CUT Number of each	Total Cut	
Education Specialists Care Center	11	1	$25,041	$25,041		1	$25,041		0	0	
Educational Aids Care Center (Downstairs)	4	3	12,208	36,624		3	36,624		0	0	
Educational Aids Care Center (Counselors)	4	2	12,208	24,416		0	0		2	$24,416	
Guard Supervisor	5	1	13,657	13,657		1	13,657		0	0	
Guards	4	4	12,208	48,832		4	48,832		0	0	
Solo-Parent Program Coordinator	11	1	25,041	25,041		0	0		1	25,041	[illegible] 849 [illegible]
Social Worker Solo-Parent Program	9	1	20,699	20,699		0	0		1	20,699	
Teacher (Child Development)	9	1	20,699	20,699		0	0		1	20,699	
Supervisory Education Technician (Dorm Manager) Solo-Parent Prog.	6	1	15,222	15,222		0	0		1	15,222	
Educational Aids Solo-Parent Program Dorms	4	8	12,208	97,664		0	0		8	97,664	
Night Attendants Solo-Parent Program Dorms	3	4	10,877	43,508		0	0		4	43,508	
Nursery Aids	3	8	10,877	87,016		0	0		8	87,016	
Guidance Totals		163		$2,184,824		106	$1,431,945		57	$751,879	

GUIDANCE AND RECREATION (continued)

Current

STAFF	CURRENT PROGRAMMED					PLAN #1			CUT		
	G.S.	Number of each	G.S. Step 10	Total Cost		Number of each	Total Cost		Number of each	Total Cut	
Supervisory Recreation Specialist	10	1	$22,788	$22,788		1	$22,788		0	0	
Recreation Specialist	7	1	16,920	16,920		1	16,920		0	0	
Recreation Assistant	5	4	13,657	54,628		3	40,971		1	$13,657	
Recreation Assistant	4	13	12,208	158,704		9	109,872		4	48,832	[illegible]
Recreation Totals		19		$ 253,040		14	$ 190,551		5	$ 62,489	
Guidance Totals		163		2,184,824		106	1,431,945		57	751,879	
SALARY TOTAL		182		2,437,864		120	1,622,496		62	814,368	
Guidance Materials & Supplies Recreation Materials & Supplies			$280,000 77,500								
Materials & Supplies			$357,500				357,500				
GRAND TOTAL							$2,795,364				

The SHOSHONE-BANNOCK TRIBES

FORT HALL INDIAN
RESERVATION
PHONE 237-0405 EX 208

TRIBAL EDUCATION COMMITTEE
P.O. BOX 306
FORT HALL, IDAHO 83203

June 20, 1979

Honorable Carl Perkins
Chairman, House Education
& Labor Committee
Suite 2181-Rayburn Building
Washington, D. C. 20515

Dear Congressman Perkins:

Enclosed you will find our comments regarding the proposed regulations and comments for P.L. 95-561. These are to be added to my testimony of June 15, 1979 Oversight Hearings. We hope you will carefully consider the negative impact of these regulation on our existing education programs. The proposed regulations and funding formula for the Indian school equilization program will destroy much of our programs.

We feel that every effort must be made to change these regulations or see our education programs and progress go down the drain.

Sincerely,

Maxine Edmo

ME:ss

ENCLOSURE

OVERVIEW FOR PUBLIC LAW 95-561, Concerns to add to
June 15,1979, Testimony of Maxine Edmo at oversite
hearing.

From a tribal point of view the implementation is an awesome task not only in terms of the bread but sweeping changes made in the Bureau of Indian Affairs and also in terms of tribal responsibilities. We do not know yet what the full intent of the overall law was. We do not feel that BIA programs should have been included in a HEW bill such as P.L. 95-561- the Education Amendments.

Tribes have continued to express their opposition to being included in to the Department of Education. At a crucial time while we were fighting for keeping our programs intact within the BIA then this Title XI of 561 was passed. Only now have we had an adequate time to really look at this bill.

First and foremost the time frames that the task forces have had to operate under is very restrictive and does not allow for collecting the needed data and research that is necessary for sound decisions. Planning by Tribes is not even considered. The law is too restrictive and mandating. Congress continues to pass laws that have impact on what we do daily with no regard for tribal planning and input that have taken years for us to build education programs to fit our community needs. No funds were appropriated when the law was signed to implement the law. BIA had to take funds from the top of BIA appropriated funds to try and implement the law.

Obstacles have been created that are overwhelming to BIA and Tribes with the existing time frames and not enough funds to have more steering committee meetings to oversee and coordinate all task force work. Standards and policies should have been in place first. As it stands now, we are faced with losing staff and programs that it took many years to build up. There is no gaurantee that once a riff is started that one year later these programs will be picked up again. We feel that we are being planned out of existance by this law. No other education program or agency is is subject to the scrutiny that we have been subjected to in the last two years.

We are losing civil service positions in the BIA at the central,area and local agencies at an alarming rate. We view these as termination efforts from the top by the Office of Management and Budget and those that drafted the wording of P.L. 95-561 -Title XI (refer to verbal testimony and copies of civil service handouts on June 15, 1979.) Other agencies have not been subject to the massive cuts in staff and funds. The other agencies count us as statistics but are not responsive to our needs. The state system has never worked for us, we are counted but there is no gaurantee that the manpower and funds reach our level.

We hope that you will halt the implementation of this law mainly functions and allotment formula for at least one year until standards are developed so that there is a smoother transition in programs and functions. That there is a gaurantee that no B.I.A. civil service positions are riffed and funding levels on all existing programs at the local agency, area offics,contract schools and boarding schools are met taking into consideration inflation cost and transitional cost can be adquately covered.

P.L. 95-561

Impact of P.L. 95-561 on the Fort Hall Indian Reservation Educational Programs.

Past And Future

Educational needs at Fort Hall

The Shoshone-Bannock Tribes like many Indian Tribes in the country have followed a divistating path like all Indian educational attempts. Beginning with the missionary (1800's) who were here to educate the "savages" as the term was at that time, for religious converts, education has been in a turmoil for 200 years. During the 1920's the move was to educate the Indian population in the whitemans ways. Years of destitute reservation life continued until the federal government decided that in order to "civilize" the Indian population we needed to have them educated in the "whiteman's ways". From this attitude came the Indian Boarding School concept where students were beaten for demenstrating any of their Indian tradition or culture. This included beating of students who spoke their native tongue, danced or did any other activity which would continue their Indian Heritage. The philosophy being, that in order for Indian People to become part of the whiteman's culture they had to give up their own culture. Many of our Tribal leaders and members suffered the old philosophy in Indian Boarding Schools years ago. Currently the Boarding School have been operating with parental imput and control have entered into era which is meeting the special needs of their students. The Boarding School philosophy has changed and become sensitive to students and parental needs, making them a vital part of Indian students educational process. This type of parental involvement is needed in all areas of Indian education to make programs responsive to Indian student needs. The incorporation of language, customs and tradition in to the curriculum offer at the Boarding School has changed Boarding Schools programs in a positive way. (Refer to previous testimony on Intermountain School on Allotment Formula.)

The Fort Hall Boarding School was discontinued in the 1940's and our students went to public schools where the situation was and still is an acculturation process and if you are Indian you have to become white. This attitude along with high unemployment and destitute living conditions on the reservation lead to an appalling and disgraceful situation at Fort Hall. The Reservation had the highest suicide, drop-out and unemployment rates in the country. The situation was an open sore on the American people. This prompted a Senate investigation working with Tribal Council and Tribal Education Committee member, the late Senator Robert Kennedy made an onsite visit of Fort Hall in 1967. This had become part of the congressional record and history, an became the basis for Indian Education Act Title IV of 1972.

In the twelve intervening years sence this historical visit, slow painful steps have been taken by Tribal Council and Education Committee to alliviate this situation. The educational progress made by the Sho-Ban Tribes is a model for many tribes to follow. With the passage of Indian Educational Act of 1972, which supplement to a small degree, the Sho-Ban Tribes comprehensive education programs have been developed to meet the specific needs of this community.

Following are the existing Educational Programs at Fort Hall. Later the Indian Self-Determination Act allowed Tribes to contract for needed educational programs and allowed more stable funding. The inpact of the phase out procedure under P.L. 95-561 there will be no monies to operate some of these programs under a stable funding source.

Sho-Ban Tribal School
Adult Learning Lab
Library
Media Center
Office Occupation
Day Care

Tribal Education Coordinator

Higher Education (college)

The equalization formula does not offer monies to cover related educational programs which have become a viable educational component on the reservation. There has been no explanation as to what federal monies were pulled together to use in the equalization program. Are we expected to cover all of above programs with equalization monies? What specific supportive service will the BIA be providing? These questions have yet to be answered before Tribes can realistically plan for FY 80 programs. If what is stated in the law and what little information we have recieved at the local level, P.L. 95-561 will be a disaster to education operations at Fort Hall.

Programs that will be effected under P.L. 95-561 Summer Programs, Media Center, Library, Continueing Education Class (ie, Dr. Jack Ridley's Indian Law and Government) Handicapped Education and BIA Educational Administration staff. Some of these programs have been addressed in the law, but there is not enough explicit information to base our educational programming on.

What happened to BIA 3100 funds, we have been told that only two elements have been left in tact, Adult Education and Higher Education. On May 24, we recieved notice from Earl Barlow that the FY 80 allocations for the Sho-Ban Tribal School was $127,950 this is an increase from FY 79, but there was no clear statement as to what these funds would cover. There are many question both by BIA staff and Tribal staff as to the financial status of education programs for FY 79.

Another question, what is the relationship between school boards and the tribes. We are very concerned about the impact of the proposed regulations on our tribes. We are very concerned about the impact of the proposed regulations on our existing education programs. The law mandates school boards with out considering existing lines of authority of Tribal Governments. Tribes have Education committees and Tribal Education Departments that are already set up to supervise and manage education programs. This creates problems of mandating that Tribes have school boards with out considering our total Tribal needs.

Flaws in allotment formula rules and regulations Section 1128--circumvents tribal governments in all processes. Tribal governments must continue as stated in P.L. 93-638. The rules should state clearly that the School Boards are subordinate to the tribal governments. The language should be clarified accordingly. Currently the funding negotiation and communication will go directly to the school board. There is a concern in various areas. Mainly in that the spirit and function of contract schools under P.L. 93-638 which is tribal control. Numerous restrictions which interfere with local decision making of Tribes needs to be clarified.

Base formula of 1800 is insufficient. Key areas of education are omitted that are existing programs such as Early Childhood Education, Vocational Education, Gifted and Talented, Library and Media Programs, summer programs, Education and training at local level. Learning lab, minimum travel (very limited). New startups are ignored. Administrative costs ignored. Yet requiring more work at local level. The formula as proposed has serious deficiencies. It links the funding of Indian education to State funding levels, a linkage which does not correspond to real Indian needs. To "Formularize" Indian Education is a foreign concept brought over from HEW. BIA and tribal contract schools are very different from one another, so far apart and so sensitive. The formula does not provide for a range of differences. We are attempting to provide for the educational needs of our Sho-Ban community. The formula lumps all Tribes together with no consideration for different languages and cultural background with schools in different climates and geographic areas.

One schools solution may be another schools disaster. A central office contingency fund should be created to add to contracts for schools with higher enrollments than projected. Additionally, special factors should be incremented into the basic formula and weighted in equitable ways.

We understand that the standards Task Force is including many of the aforementioned programs in their standards to be developed. We are recommending that the aforementioned be included in the formula as early as possible to allow for problem areas to be worked out. Rather than to wait for future funding cycles to work these in. Once existing programs are eliminated then there is no guarantee that these programs will be started up again in one year. Existing staff that are trained and have the expertise in current programs and areas will be hard to replace once a riff is started. Time frames of different sections of the law in Title XI of P.L. 95-561 have created obstacles that are impossible for BIA staff, Task Forces, School Boards and Tribes to overcome. We are planned to failure by this law. We are concerned about having all contract employees. This matter should be reconsidered and be looked at realistically. We need stable personnel at all levels of education.

Transfer of Indian Education Functions 25 CFR Part 31b

Decision Regarding Line Authority to the Director of Education Programs

Since education programs are no longer under the structure of the Bureau but rather directly attached to the Assistant Secretary's Office, our concern will continue on the part of our Tribes regarding packaging of education for a move to the propored department of education, this continues to be a major concern. Decisions regarding supervision of Agency Superntendents for Education by the Director of Office of Indian EDucation Programs is unrealistic. The decision for the Director of Office of Indian Education to assume supervision of over fifty field locations, in addition to several post secondary institutions is not workable. How can one man do the job. How can one man supervise 250 separate schoos without any intermediate levels inbetween? Our Tribes are very concerned how a totally unworkable arrangement for supervision of education programs can even be considered? The area offices should continue to be involved in coordination and delevery of education services under trust functions. The education programs that are contracted should continue to be a part of the trust functions in B.I.A. at each agency and area level.

IN REPLY REFER TO:
Education

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
FORT HALL AGENCY
FORT HALL, IDAHO 83203

June 20, 1979

Memorandum

To: Maxine Edmo, Tribal Education Committee

From: Education Specialist, Branch of Education, Fort Hall Agency

Subject: FY 1980 and 1981 ZBB Information

There seems to be considerable changes in the subject Zero Based Budgeting process for fiscal year 198[illegible]. The process uses the FY 1980 based figure wherein only Higher Education and Adult Education appears on the printout. The remaining element and component for contractual programs and services are not defined. The P.L. 95-561 seems to control funding for all the other cost categories. To date, however, no information or administrative direction is being provided as to how the funding process will be handled. The Tribal Education administration, Tribal Contract Officer and other local BIA Agency administration are uncertain.

Below we are providing the conceptual differences between FY 1979, 1980 and 1981. Hopefully, this will give you some insights on what effect it has on us during this transition.

(Current) FY 1979			(Projected Oct. 1, 1979) FY 1980			(Planned) FY 1981		
Ele/com	Service	Amount	Ele/com	Service	Amount	Ele/com	Service	Amt.
1090	Educ. Trng. & Gen.	87,000.	1090	- No dent.	- 0 -	1090	- No ident.	- 0 -
1168	School Operation	2,700.	1168	- No ident.	- 0 -	1168	No ident.	- 0 -
1362	Adult Education (Adult Learning Lab)	77,200.	1362	Adult. Ed	54,500.	1362	Adult Ed.	54,500.
1365	Higher Education	89,540.	1365	Higher Ed	89,100	1365	Higher Ed.	89,100.
1490	Summer Program	81,400	1490	- No ident.	- 0 -	1490	No ident.	- 0 -
1790	Aid to Previously Private School	85,300.	1790	- No ident.	- 0 -	1790	No ident.	- 0 -
	Total	423,140.			143,600.			143,600.

The catagory and separation of funding plan channeled through Portland Area office and direct from BIA Central Office, Washington, D.C., confuses everyone involved; especially when critical areas of Media Service contract, summer program, aid to previously private school, and administrative staffing costs are not addressed in the ZBB process this year.

Without any pertinent information or materials available, I am unable to make any full commitment to guarantee funding for all Tribal Education Contracts beginning October 1, 1979, (FY 1980).

For more information, or if you have any further questions, please advise.

Education Specialist (C.S.)

June 6, 1979

Memorandum

TO: Superintendent, Fort Hall Agency

FROM: Education Specialist, Branch of Education

SUBJECT: Proposed Personnel Cut for Fort Hall Agency

This is a follow-up on your memorandum of June 4, 1979 to Portland Area Director, Attention: Assistant Area Director for Administration.

Due to recent passage of P.L. 95-561 Education Amendment Act of 1978, certain regulations are being prepared. Subsequently, BIA Education functions are being reorganized to implement certain provisions of the Title XI. Within this implementation new education policies, a new line authority structure and new personnel system are being introduced. These proposed rules appear in May 22, 1979 issue of the Federal Register. With this in mind, the Tribal Education Committee and myself feel that identifying education position for the proposed personnel cut for this agency is premature. The cut without serious consideration of the impact of the law may jeopardize our future need for additional positions in the Branch of Education. The regulations are projected to be implemented by September, 1979.

Furthermore, the new proposed rules stressed the importance of shifting decision authority to local level for establishing education position(s) and involve the participation of Indian School Boards. Should these rules are finalized; our responsibility to do a comprehensive education planning will become eminent.

Finally, your proposed reduction will adversely effect the Branch of Education and Tribal Education department's effort to develop a comprehensive education and manpower plan for the reservation, to accomplish such task, the Tribal Education and Manpower Planning Council and the Tribal Business Council will need all the professional help. The adult education program is an area a comprehensive community education program can focus.

Your support and effort to reverse your proposed education position cut will be appreciated.

Bobby Thompson
Education S

DISTRIBUTION OF POSITION CEILING AS NOTED FROM POSITION MANAGEMENT PRINT-OUT

		PRESENT	AS OF 11/78	AS OF 11/77	AS OF 9/76	AS OF 6/75	AS OF 6/74	AS OF 6/72	AS OF 6/71	
PORTLAND AREA	(-17/28*)	181	179	181	174	170	171	300	198	
CHEMAWA	(-50)	102	102	110	107	109	149	152	152	-RIF 74/75
COLVILLE	(-34)	133	139	90	95	95	86		99	
FORT HALL	(-36)	63	64	66	65	65	63	65	99	-RIF IRR. CONS. OPNS.
NORTHERN IDAHO	(+1)	56	56	53	51	51	49	54	55	
UMATILLA	(+5)	26	26	24	24	24	21	21	21	
WAPATO	(-13)	102	102	101	101	101	106		115	-VOLUNTARY CEILING REDUCTION
WARM SPRINGS	(+9)	81	83	71	75	76	75	71	72	
W. WASHINGTON	(+35)	140	143	118	126	122	98	106	105	
YAKIMA	(+17)	159	163	146	141	142	198	200	203	-FT. SIMCOE TRANS TO DEPT.
SPOKANE	(+12)	31	32	24	28	25	23	20	19	

*INCLUDES SILETZ
INCLUDES APPRAISERS
INCLUDES SFEAO

In reference to Part C of 95-561 = Indian Education Provisions Section

As you are aware there continue's to exist extreme controversy over the inclusion of BIA education function in the new Department of Education over the past 2 years, as stated in S991-S210, HR2444 and other Bills. Although the BIA transfer provision was deleted from HR2444. The House Bill to establish the Cabinet Department of Education, our Tribe still opposes any future attempts to transfer BIA education functions, either by, Executive Order of the President or by future legislation of the Congress.

In recent years since the establishment of the Office of Indian Education Department HEW the federally recognized Tribes have become more and more concerned that the very loose definition of "Indian" contained in OIE's enabling legislation has resulted in serious abuses of the utilization of Indian Education appropriations.

Person's of hardly any Indian blood are being served now and Tribes watch helplessly as the definition of Indian is being threatened with delusion in OIE, HEW. What is the intent of this study? Within the Department of HEW's office of Indian Education and BIA's Office of Indian Education are varying eligibility definitions. This is a very crucial concern of the Tribes. The more stringent definition employed by the BIA allows the true Indian people to participate in the education process. Tribal governing bodies or their designee should be involved in the definition study, rather than hand picked people who represent on person or none at all. NTCA or NCAI representatives should be the persons to meet on this, rather than NIEA, AIO as these groups who do not answer to anyone.

The emphasis of Title IV is off reservation. With Part A funds receiving the largest appropriation, Parts B and C have not received emphasis in funding. Tribes submit proposals to OIE and these are highly competitive, many Tribes have given up on these funds because there is no gaurantee that their programs will be funded. Urban programs are being funded and Tribes defunded. Nowhere in the act does it say cities will receive priority funding under Title IV. Staff that were involved in court cases continue to work in OIE even though it was proven in court that there was wrong doing (example). All Indian Puelbo Council versus Ernest Boyer court case. There should be a reversal of this trend in OIE and HEW. There is no gaurantee that the intent of the law will be carried out and the funding was intended for, any legislation is only as good as its implementation.

The Department of HEW has not recognized the passage of the Indian Self-Determination Act (PL 93-638) even in the office of Indian Education. They do not recognize the government to government relationship that the Bureau of Indian Affairs has with Tribal government and the legal relationship that exists.

Indian Tribal governments or their designee should be involved in the planning and implementation of Indian programs. An Indian Tribe has a governing body elected by the Tribal members and a reservation is a community of people. OIE staff and Administrations of HEW should be mandated to study this law of P.L. 93-638, rather than ignoring this law that is a Congressional mandate or place the Administration of Title IV in the Bureau of Indian Affairs.

Tribes did not request for a regional TA center. We feel this is dictating to Tribes in drawing lines on a map and OIE is telling us to fit into this one region. We should have a freedom of choice. Currently we receive services from CICSB in Denver Colo; Since we have a Tribal Contract School. We are not in favor of geographically limiting the CICSB to one region. Many Tribes nationally receive TA from them and this expertise should be available to all Tribes.

Indian Preference is also a joke in OIE because this has come to mean that anyone who self identifies as an Indian may claim preference. The Advisory structure has been meaningless, no impact is made or OIE will not listen.

In May 1979 issue of OIE newsletter, page 2 it was stated that on February 14, 1979, A.S.E. staff and Congressional staff met for the purpose of obtaining a better understanding of the intent behind the study and expected results. Two main points are particularly significant. The principal reason for mandating the study was the need to obtain more information about Title IV so that future policy determination maybe based on sound facts.

Our major concern once again is the Indian Tribal governing bodies or their designee should be involved in making policy decisions for Indian Education, This is our childrens future. Indian education is highly specialized, languages and environments of the various Tribal groupings. We do not feel that non-Indian people whether in HEW, OIE or Congressional staff have the expertise or the experience in Indian Education to make policy decisions for us as Tribes.

Tribes have not been given enough time to comment on all provisions of P.L. 94-561, as time frames are too stringent.

Mr. KILDEE. Thank you very much.

Our next panel consists of Mr. Wayne Holm, director, Rock Point Community School, Chinle, Ariz., and Mr. Norman Ration, Ramah Navajo School Board, Pine Hill, N. Mex.

Mr. LOVESEE. Mr. Ration, did you submit written testimony?

STATEMENT OF WAYNE HOLM, DIRECTOR, ROCK POINT COMMUNITY SCHOOL, CHINLE, ARIZ.; AND NORMAN RATION, RAMAH NAVAJO SCHOOL BOARD, INC., PINE HILL, N. MEX.

Mr. RATION. Yes, I did. I gave it to the young lady sitting over there. I gave her 46 copies.

Mr. LOVESEE. Thank you.

Mr. HOLM. I have submitted written testimony and we also have 60-some-odd pages of comments on the regulations that we are submitting.

I would like to begin by giving a little bit of my background so you have a warning where I am coming from.

My original background was a BIA principle. I have been for the last 7 years director and now the assistant director of a Navajo community controlled school. At the Rock Point School we have a particular concern about bilingual education.

I am also a dropout from the Standards Committee in the regulation drafting process. These are some of my concerns: The perception of the board that I work with is one of seeing this title XI as an attempt to make it possible for the Bureau school boards to exercise some of the responsibilities that contract school boards have been able to exercise within the framework of the BIA. That is of doing so without actually contracting it.

I think most of us are in favor of seeing this sort of thing happen. The way the regulations are written, the most immediate effect on contract schools are the allotment formula and will be later the standards formula, so that most of our comments then will have to do with the allotment formula.

We have made extensive comments on the regulations that have been developed and have turned some of those in. We start with some concerns about the very notion of weighted per pupil formula as a way of distributing funds. We have been advised that this is implicit or explicit in the conference report so it just has to be done.

If we accept this, we have some concerns about the way that it is being done. In most of our concerns we have addressed very specific issues within the regulations. But these comments cluster around certain problems.

A recurring problem that is probably inadvertent and could be killed by inadvertent errors or omissions in regulations is that there is a number of situations where contract boards would be treated the same as Bureau boards, and there are phrases having to do with adjustments in contracts in quarterly allocations of funds that make some of us who suffer from institutional paranoia a little nervous.

We are suggesting changes we think that could incorporate this process for the Bureau but would deal with the fact that contract school boards have a different legal relation with the Government. They are actually responsible for having money in the bank to pay for the services that they have contracted to do. I think somewhat different arrangements will have to be made and that these boards will have to be protected from unilateral changes in contract budgets.

A second issue that we find recurring, and several of the preceding witnesses have addressed this, is that we feel that there is a shift in the weighting toward large off-reservation boarding schools. Given a finite amount of money this means in effect a loss of funds for on-reservation small day schools and problems with the transportation formula.

The third area is this area of transportation. I spent a good bit earlier this week working with some of the smaller Bureau schools on Black Mesa. I think it could be almost a textbook case of trying to make the lay of the regulations fit the lay of the land or something like that. This is going to be a very key area.

If the Bureau has policies, as is stated in section 31(a), favoring respect for the family, community schools, options to attend day schools, and this sort of thing, then I think the formulas are going to have to deliver these kinds of moneys.

In our initial perception, and we have not had time to do work in detail, the proposed formula is extremely complicated. It does not fit a number of schools. We have had to help people recompute their figures. The four schools that we were able to work with earlier in this week came out with figures that would be anywhere from 50 to 60 percent of their day needs for day student transportation.

I am concerned about these schools because the Bureau is already rifling busdrivers which means that people that they delivered this last year either have to be delivered by a smaller number of busdrivers next year or they will not be delivered at all.

This will further reduce their money for transportation and I can see a decreasing cycle where the money simply is not going to be made available for putting children in day schools when most of us that were involved in either the development of legislation and the regulations are very strongly in favor of having as many children as possible come to school on a daily basis. The problems with little schools and big schools, some of these have been addressed.

Don Kramer has done an analysis of impact on Navajo schools. Our perception from the data he has produced so far is that despite what I think is an honest effort of the committee to attempt to distribute money somewhat more equitably than has been done in the past, the current small school equalization formula is a disaster.

It does not do what it is supposed to do. It would look like on the Navajo Reservation that the large boarding schools will actually gain under this process over what they have been getting.

So that I think there still needs to be some very careful attention to this. Some of our other concerns, I am sure it is inadvertent, but you get almost four to five times as much money for putting the kindergarten child in a dormitory as you do for having him there on a day basis for less than 5 hours. I do not think this reflects the intention of the committee or the Congress.

We, as some of the other people, are concerned about the definitions in bilingual education. We would suggest the definitions be written tightly enough so that in effect this definition would give money only to schools that are actually running programs of academic instruction in two languages.

The current definition, our perception is on Navajo the way it is now written every school will claim money for bilingual because the students should be bilingual. But this in no way guarantees that anybody will be offering programs of bilingual instruction in the schools.

The net effect is going to be simply to lower the value of the base unit which means in the end we have redistributed money with no changes in academic programs for those children.

It sounds a little ironic coming from a person who has spent the last 7 years fighting the BIA, but I am concerned about the fact that the formula could distribute money too soon to Bureau schools in such a way that neither the Bureau nor the board nor anybody else is able to deal with local problems as they come up.

It may sound ironic but I think there has to be money left in reserve to deal with problems of a lesser magnitude than a school burnout or an earthquake which are real problems that cannot be foreseen in the first year and with which there is no reserve to meet these problems.

The standards will be coming out a year from now. I have had to drop out of the process of working with the committee. It just simply has taken more time than what I could give and still meet my obligations at the local school. I have been frustrated with the activities of that committee. I am very concerned about the eventual impact of the standards committee, what it will be.

A question was asked earlier about the impact of standards on contract schools. I think it was stated that these would not affect contract schools. My perception is that the way the legislation is written that section 1121 having to do with the instructional program, that in effect there is an escape clause for contract schools. My perception is that on the dormitory criteria on 1122 that there is not.

One of the key questions then for contract schools is where support services such as food services, residential care, transportation, maintenance are placed in section 1121 or 1122. I am concerned also in standards that an extreme specificity of standards could end up very narrowly limiting the range of options which the local school boards and their supervisors have constructing school programs.

It may be perhaps a bit of a philosophic digression but I would simply like to state our concerns for the fact that both formula and standards are an attempt to meet problems that have occurred in Bureau-funded and Bureau-operated schools in the past.

But I am very much concerned that in our urge to impose tighter standards or tighter rules on the equitable distribution of funds that there is the very real possibility that we can construct a ready made program that really leaves boards of Bureau schools with little to do besides selecting the people who will run a program that has been largely dictated by the standards and the formula.

I would hope that there would be some larger role for the boards of Bureau schools than simply selecting the personnel to run a ready made program. I think that the history of our American education in the last few years would suggest that it is very difficult to improve the quality of education for kids at the classroom level from the top and that the role of formula and standards I think is going to have to be perceived in this way:

That we have to say that the formula and the standards are going to have to be set up in fairly large generalizations so that we prevent the worst kind of abuses of maldistribution of funds or of programs not being provided or of inappropriate programs being provided but that we take some chances at the local level for people who do both good programs and bad programs.

My perception of change in the schools is that it just about has to come at the school level, at the district level, the system level, the State level, or the national level. We can prevent certain kinds of abuses but we cannot force quality education. Principals of these schools at this time are completely loaded down with taking care of the Government's property, personnel, payroll and we are now asking them to spend more time with the school boards, which is good.

We are asking them to spend more time with the finance management of the program. That is good. Next year we will now ask them to start certifying that they are meeting certain kinds of standards. These people have not been providing academic leadership in the past. We are not providing them any additional assistance in the schools to perform these functions. I am not sure we are going to get increased quality out of education.

We may get a larger volume of paperwork flowing but I think there has to be enough slack, for lack of a better word, in both the formula and the standards that we don't specify every little program that the formula will fund and in effect by doing so say nothing else will be funded and we don't set up standards so tight that only certain programs can be funded and no others.

I think there is going to have to be enough slack left in both of these areas that would, on the one hand, admittedly allow for people to make errors but, on the other hand, will allow people to develop good programs of types that some of us cannot foresee now.

The second area very quickly is that I think there is going to be a very painful period of transition in the Bureau. The processes that are going on now of separating education from noneducation, the empowerment of school boards, the changes in budgeting are going to make a number of changes.

I think it is going to take two or three funding cycles to make some of this work. I hope that you people can be as successful as you were Wednesday night in restraining some of your colleagues to have simplistic solutions to some of these problems by relocating them somewhere else.

The third area that I would have of concern has to do with what I would consider to be perhaps some of the unfinished business of this legislation. Rock Point is a rather unusual school in that we went contract in 1972 with an arrangement where part of the staff worked for the board and part of the staff remained with the Bureau.

As far as I know we are the only school in the country that over a 5-year period has gone through the transition that I see happening in the next unspecified number of years inside the BIA of running a school with a mixed staff of Bureau and board people.

It is now an all-board staff. I don't know what the legal and political considerations were that were brought to bear on the committee and the Congress in this initial legislation. I quite frankly foresee some. We have survived a situation of dual personnel. I am not sure we can paraphrase Mr. Lincoln to say that a school divided among itself shall not succeed. But it is very, very difficult.

I would urge the committee to review the earlier decision. I think, painful as it might be, that it might be possible to save a great deal of grief if all school level people were to be essentially title XI contract-type employees rather than to have a dual staff into the indefinite future.

I think the second problem that may or may not be addressed by regulations is that people are interpreting the law to say in effect that the salaries at the schools for the civil service employees and the title XI employees will be kept comparable. This is something that you have to do if you have two staffs. But there are some real problems in effect in the wage grade scale.

There are some severe problems in the Bureau pay system right now in fact because we have a blue collar scale and a white collar scale. Things that were once comparable are no longer. In some of the schools I visited last week the head cook is making more than the principal and the bus drivers are making more than the teachers. There are some very peculiar situations in some of these places. This might be solved easily from one point of view if all employees were title XI contract employees on a unified pay scale.

The third area of concern that I have is again thinking about Bureau schools but simply going from our own experience, is that there are going to be some real problems in making Bureau boards responsible for budgets which they are going to have extreme difficulty in managing because of civil service regulations. We worked out some imaginary scenarios in the Navajo area that would show a reduction in force at a school.

The board finds out in January or February civil service procedures might require 3 to 4 months to run a formal reduction in force. They finally get to the reduction in force. They have the older person's severence pay. They have 8 months of heartache and they end up either not being able to open the school or the school is in the red leaving people to say, "Them damn Indians don't know how to manage money." So I think they are fairly compelling arguments that the continuation of civil service is going to make it extremely difficult for local boards to actually manage that budget in an effective way.

Mr. KILDEE. You put your finger on something that the Congress wrestled with to avoid double referral. The Post Office and Civil Service Committee, of course, was watching this committee very carefully, almost with a eagle eye. There were some combinations made. I recognize that. I think you have some experience which probably will be helpful to us, inasmuch as you had a dual staff there in your contract school for a few years.

You have all board staff now, right?

Mr. HOLM. That is right.

Mr. KILDEE. Well, the statute was an accommodation made in the Congress because of certain concerns. We avoided double referral but they were watching us very closely on that. They had some concerns that became part of the bill.

Mr. HOLM. I would like to make one other recommendation that does relate to that. That is, one way of partially relieving the situation in the future, it would not help the first year, but that would be—I am sure there are some real problems with this—to give schools carryover authority. The problem of putting money out to each school means there are a number of real problems with this.

The first is that unless every school has its data in and the data is verified, that anybody who is late or anybody who is in error affects every other school in the system.

The other is that by putting money down to the school level it reduces the margin of any one school to deal with unforeseen problems that do come up.

The extension of some sort of carryover authority to these schools such as contract schools have enjoyed would allow some sort of reserve to be maintained at the school which would give these boards some kind of at least minimal disaster insurance from 1 year to the next if they were able to in effect carry over 5 percent or something like that.

Mr. KILDEE. I think your suggestion is excellent, in my own personal appraisal. I don't know whether that could be done by the Appropriations Committee or whether it requires a change in the authorization legislation.

Mr. LOVESEE. I believe it would require a change in the authorization legislation but it certainly would be something that the Chairman could check with the Appropriations Committee.

Mr. KILDEE. That is a very interesting suggestion. I will follow through on it. As you know, under Congress we authorize and then we appropriate, so I can't guarantee anything.

Mr. HOLM. We are painfully aware of that process.

Mr. KILDEE. We are better at authorizing than we are at appropriating. That is one of the great congressional sins. Thank you. That is a very, very excellent suggestion.

Mr. HOLM. I have been trying to save some time for Norman. I have to live on the same reservation.

Mr. RATION. Sometimes I wonder. The reason I say that is because the reservation is separated by about 90 miles. We are southeast of the main reservation. Sometimes it is hard to believe we are part of the Navajo Reservation, because we don't get the assistance we need to carry on the activities that we have in our area.

I would agree with a lot of the concerns that Wayne has made in his presentation.

One of the further concerns that has been stated this morning also is that the formula funding using a $1,800 base, as far as our school is concerned, is inadequate. We feel that the formula should be based on need of a particular school district or school areas because some needs are greater in one area as opposed to another area.

If you look at the situation that we are presently in, we have an organization called Ramah Navajo School Board but it is not just a school board. It is really a community government because we contract for health services, we contract for funds out of HEW, Department of Labor, radio stations and all these types of things.

So our school board is more than just a school board. So a lot of these things looked to the training and education of students.

Mr. KILDEE. Would you mind suspending for a moment? I will have to run over and vote.

[A brief recess was taken.]

Mr. KILDEE. The subcommittee will reconvene.

Mr. Ration, thank you for your indulgence.

Mr. RATION. Another concern that we have in our area is the 15 percent that is going to be allowed for operations and maintenance. That, we feel, is very low and should be increased.

One of the reasons is that there again you have to look at the situation that exists. We have beautiful educational conditions but lousy living conditions. We live in trailers that we have been living in for 7 or 8 years. So it takes more maintenance of the facilities to keep them up to par.

We have gone to Congress a number of times to testify for continued school construction. This year is the most recent that we have made a request. We still have a number of buildings that have to be built but in the meantime we need a higher level of funding to keep what we have and keep them operational until something else happens.

So we feel the amount of money allowed there is very low. We also look at the formula funding and the way it is set up at this point in time. We feel it is going to cause over the next few years a reduction of 20 to 30 percent in our overall budget which means we are going to have to do away with a lot of programs we presently have within our school system.

Of course, not only is it going to reduce the programs but it is also going to reduce staff in the area. It is also going to hamper the student's education. So that is another concern that we have.

In the transportation area, there is reference to busing students in from the farthest location and using that as a guide to determine what amount of money is going to be made available. There is also information regarding boarding schools with the assumption being that a boarding school and a dormitory are in the same location.

In our particular situation our dormitory is 26 miles one way distance from our school. So that is another request that we are making of Congress, also, that we get funding to build dormitories and cafeterias and this type of thing.

In our interpretation, money for transportation from the dormitory to the school is not within the formula. So it is going to cause us some problems. We have something like 385 day students that travel regular bus routes. We have about 101 students in the dormitory which have to be bused a total of 52 miles round trip on a daily basis.

The allowances that are made for school board development, I think, are inadequate because when you look at contract schools, there are many contract schools that are not only trying to develop within a school situation but they are trying to tie into the whole community. They need lots and lots of training to understand what the occupational systems are all about and the kinds of decisions they have to make.

My feeling is that the $5,000 allowance for school board meetings is inadequate because there are too many things they have to learn. When they put together their rules and regulations as to how people will be elected it is very limited to the type of people that will be elected because it is in conflict with personnel policies and procedures.

So there is a very small number of people that are eligible to become school board members and in our particular situation most of those school board members are uneducated. As they come in or take their seats then they have to be retrained in what would be a school board function. So I feel that the $5,000 is inadequate.

There is also reference that is made to the priority system of school construction. There are two different lists, one being the BIA and the other being the contract schools. I have gone on record before supporting that both components get separate funding so that contract schools that are generally new will be able to come up to par with other schools that are already in existence.

Now we have a school right now that is half complete and we still have a number of Butler or Baynes buildings that our students are still in. The Baynes buildings that we have are for kindergarten and high school classes and are becoming overcrowded. There again when you look at the Baynes buildings, you are talking again about an additional maintenance cost because it takes more to heat a metal building and they deteriorate a lot faster than the permanently constructed type of buildings.

So I would also like to urge this committee to go on record with the Appropriations Committee that contract schools be funded separately for school construction and that moneys be separately earmarked so that it can be transferred from one line item to another line item, as I imagine has happened in the past.

So that is the extent of my testimony today.

Mr. **Kildee**. Thank you very much, Mr. Ration.

We appreciate your suggestions to the committee.

My first question would be for Mr. Holm. However, either one of you can address yourselves to these. You mentioned your concern over the administrative paperwork that is growing and probably will continue to grow unfortunately, even though we have very strong antipaperwork amendments on almost all of our bills.

How do you think we can address that problem?

The principal primarily should be the chief educator of a school and yet, having taught for 10 years myself, I know that is not always the case because of the burdensome paperwork problems.

Do you have any suggestions as to how we could lessen that?

Mr. **Holm**. I am probably as pessimistic as you are about actually lessening it. I think what has happened in the contract schools is the experience that even the smallest of the contract schools on the Navajo, which would be Black Mesa with 45 students, has been the experience that it has in effect taken two people, a division of functions of the person who is acting as the director and the person who is acting as a financial administrative officer.

As we make Bureau schools more like contract schools I suspect one of the things we may have to do is to say what we are trying to do is to empower local community boards that have had no or very little power in their communities in the last century and honestly admit that this is going to cost money but that to relocate the authority to run those schools or to make decisions at those schools in the end will not make people more capable of making decisions about their children.

So there are really two things we can do. One would be to admit that we are somewhat autonomizing these schools to a certain extent and we are going to have to put at least one other person in these schools to make that possible but, on the other hand, to try to keep formula and standards fairly general so that in effect the process of keeping the paper flowing for people further up the line does not become an end in itself.

This is what scares me about both the standards and the formula. I see people already beginning to talk about ways of collecting money rather than educating students. I see people talking about ways of consolidating what is now an agency school system now a single school with seven locations that in effect the decisions on allocating funds can be retained at the agency offices, things of this kind.

It probably isn't very popular, but I feel what the legislation tries to do, what was not done a century ago, of putting Indians in control of their own education. It is going to cost money to do it right.

Mr. KILDEE. Do you think in seeking information—that is what paperwork is, making out reports so we can have information and the BIA can have information—in seeking information there is much information that we seek that is not really needed?

Mr. HOLM. I think so. My experience of sitting on the task forces or committees of people, saying it would be very nice if we had this information, dot, dot, dot, and we have ended up saying damn it, it cost time and money to collect that information. If there should be some kind of cost benefit notion applied that having that information. If it is really worth it, fine. But if it doesn't really make a difference in the way kids are educated, maybe it shouldn't be asked for or in that detail.

Mr. KILDEE. I think that cost benefit principle may be one of the ways we could evaluate the necessity for asking for certain information.

Mr. HOLM. If we don't hire more people to send questionnaires to the schools to get information to find out what the benefits are.

Mr. KILDEE. The paperwork committee we had here for a while generated a great deal of paperwork.

Mr. Ration, you mentioned a transportation problem which you have at Ramah, where your dormitory is located, was 26 miles away——

Mr. RATION. Yes, sir.

Mr. KILDEE. Do you have specific suggestions as to how we could address that problem in the formula, or should we leave some flexibility somehow in distribution?

Mr. RATION. I think if it is included in the formula just like any other transportation from the home to the school, if it can be computed on the basis so many students traveled that distance to the school and back, then I think that would take care of the situation. It presently assumes the dormitory is where the school is, and I think writing that into it would take care of the situation. I don't know how many other schools are in the same situation we are, but I think that would alleviate the problem.

Mr. KILDEE. I will look into that and see whether it can be done.

Mr. RATION. I appreciate it.

Mr. KILDEE. Does majority counsel have any questions?

Mr. LOVESEE. I have to write that down since it was a promise that was made.

Mr. KILDEE. I carried Mr. Lovesee all through New Mexico and Arizona, so he could refresh my memory when I got back, and he has been good so far.

I will definitely look into that.

Mr. LOVESEE. I do have a question with respect to the formula. It could perhaps be exemplified by your testimony that 15 percent for operation and maintenance would not be sufficient in your particular instance, that perhaps it would be more necessary to have 25 percent. I am wondering if facilities maintenance would not be best handled through some type of either categorical or some type of situation outside the formula. It could be based on the facilities inventory, once it is completed by the BIA. Or do you feel that it should be, in fact, formularized along with everything else? I am not proposing to change the idea of local control, just merely how the money is allocated for that particular program.

Mr. RATION. I think it should be written in as a separate formula rather than to have the Bureau of Indian Affairs have a separate pot of money set aside that if you run into an emergency, you could drawn from, because sometimes it becomes very difficult to get the money out of the Bureau to do the kind of thing you have to do.

For instance, in our dormitory down in Ramah, we have been requesting over and over again for them to set up a separate pot of money where we could remodel our dormitory, and we have something like $100,000 worth of remodeling to do, and there is no money to do it, but the roof leaks, the equipment in the kitchen doesn't work, and different things are out of order; but there is no money available, and if there is, they sure are not making it available to us, and I think those kinds of things should be formularized so it goes directly to the school.

Mr. LOVESEE. Perhaps I am not making myself clear. I am not talking about a pot of money on a grant-type basis. I am suggesting there be an educational program formula and separate formula to handle operations and maintenance. It would still be formularized and sent out but it would not become a factor in the educational program.

Would that, do you think, make a difference, or does it matter?

Mr. RATION. I think it would make a difference if it is over and above the educational-type formula. It would make a difference.

Mr. LOVESEE. Mr. Holm, do you have an opinion on that?

Mr. HOLM. Yes, I think it should be kept separate. I think there are going to be a lot of regional differences from one part of the country to another. I think there may be even more problems in allocating all facilities management costs down to the school level, and it would be particularly true with the Navajo. For smaller schools or schools that are fairly close to large towns, it may be fairly easy or a little easier to contract for specialist-type services. I think the problem you have on the Navajo Reservation is 50 schools in an area located as they are; it would be very hard, No. 1, to foresee all contingencies. I can see situations where, as happened last year at Dennehotso, the dormitory was damaged by fire. I don't think we could say it will take the Dennehotso formula 5 years to accrue enough money to repair the damage. There has to be some place it can be pulled in from, and the hard decisions, the fact of whether some of our money should go to Dennehotso or not, have to be made. They can't be wished away.

I feel there is probably going to have to be a split between some kind of formularization and some kind of reserve that deals with problems that are intermediate between absolute disasters that the contingency fund now handles and some middle-sized disasters that happen, like our roof got blown off a couple years ago.

Mr. LOVESEE. Knowing the Bureau system, has it been fixed?

Mr. HOLM. We sandbagged it down in the middle of the night, and it is still holding. They fixed it.

Mr. LOVESEE. I have another question. Mr. Holm, how much money should the school boards get? Do you agree with Mr. Ration that $5,000 per year for training is inadequate?

Mr. HOLM. I think we are in agreement. I understood Norman's statement to be making the fact that in contract schools, the ones we are familiar with, the whole school board situation is handled out of indirect cost funds. So I think his comments addressed the situation at the Bureau schools, and it would be our perception that, yes, it would take more money than this to help the Bureau schools acquire the kinds of knowledge that it is going to take to make this system work.

Mr. LOVESEE. Mr. Ration, do you feel the amount should be a set amount per school, or should that be left at the discretion of the school board using funds which would then come out of the general allotment?

Mr. RATION. I think that it should be left to the discretion of the school board as to the amount of funds they would need to provide themselves with the kinds of training that is necessary. But I think when you look at school boards, you have to look at what the school boards are doing as such. For instance, our school board, as I stated earlier, does everything under the sun, including school, we are busy contracting with all the various departments, and so our school board is really more than a school board. A lot of the different programs we contract for are directly related to educational-type situations and job-related-type things. The whole emphasis of the school board is to provide education through training not only for high school students or elementary students, but also for the adult communities so that they, themselves, would be able to go out and find some meaningful type of employment. So everything is based on an education for the total.

In our case it would take many, many more dollars to educate our people, as opposed to another school board that just runs a school, and I think it should be left to the discretion of the board to determine how much they are going to need to get into a particular educational area.

Mr. LOVESEE. Thank you. Thank you, Mr. Chairman.

Mr. **Kildee**. Does minority counsel have questions?

Ms. **Vance**. No questions.

Mr. **Kildee**. Thank you very much. We appreciate your testimony and again ask you to keep in contact with us.

[Mr. Holm's and Mr. Ration's complete statements follow:]

Statement Submitted by Wayne Holm, Director, Rock Point Community School, Chinle, Ariz.

TESTIMONY
TITLE XI Pl 95-561
OVERSIGHT HEARINGS
SUBCOMMITTEE
ON ELEM., SEC. AND VOC. EDUCATION
WASHINGTON
JUNE 15, 1979

I make no pretense of being a dispassionate observer of education and legislation in America. I am the Academic Director of a "contract" school in the Rock Point community on the Navajo Reservation. My concern there, and here, is for community-controlled quality academic bilingual education for Rock Point, Navajo, Indian, students.

My comments today will be foccused on certain sections of Part B of Title XI: on certain sections which will affect so-called "contract" schools and on certain sections with which we may have had experiences that Bureau schools and offices have not yet had. I would like to comment on proposed Title XI regulations and regulation-drafting process, on increased Central Office and local control of BIA-operated schools, and on some matters not addressed by the law.

a) regulations and regulation-drafting

The Bureau seems to have made a genuine effort to involve more, and different, people in the process of developing the Title XI regulations. As a some-time participant in the process, I know that this has not been easy. The Bureau is to be commended for having resisted advice either to contract out this work or have it done in an obscure cubbyhole by a handful of people. Going public has been awkward, painful, and I'm sure frustrating. It still remains to be seen whether or not good regulations can be drafted this way in the time available. But the leadership of the Bureau is to be commended for their apparently sincere efforts to develop regulations as publicly as time constraints will allow.

Four of the current six members of the Rock Point Community School Board are essentially monolingual-Navajo-speakers. The Rock Point Board, along with the other Navajo community-controlled school Boards, has followed this title from its introduction as HR 2157 to these hearings to date. Our perception is of Title XI as an attempt to increase community control of Bureau schools while keeping those schools within the system, i.e., without contracting.

As community-controlled "contract" schools, we are not directly affected by much of Title XI and its attendant regulations. We will be affected, indirectly, by a number of provisions of the bill. We will be affected by the degree of strength, integrity, and effectiveness retained by the Bureau in these coming months and years.

Our two most immediate concerns with the regulations will be with the allotment formula(e) and with the standards.

The proposed rules for the instructional, residential and transportation formulae were published in the Federal Register on ay 22nd. We have studied these in some detail and will be delivering extensive comments to the Bureau this afternoon.

We are impressed with the amount of work that has been done.

I had, and retain, some doubts about the degree to which one can "formularize" Indian education. Bureau schools are so (relatively) small, so far apart, so very different from one another... it is hard to believe that a formula so omniscient and so sensitive that it can provide for the range of differences found in local programs can be developed.

The Committee or its consultants are convinced that the Conference Report calls for, or clearly implies, weighted per pupil formulae. It would appear that such formulae might go a long way to alleviating some of the grosser inequities of funding that have been noted. But (although this may sound strange coming from a contract school administrator) I would urge both the Bureau and the Congress to avoid formularizing every last dollar. The 'solution' carries its own, new, 'problems'. Putting every school's money in a common 'pot' before dividing it means that until all data is in, and unless all data is correct, every school will be affected by the delays or errors of any other school. It is essential, if Boards are to learn to manage budgets, that rock-bottom budget amounts be set (relatively) early in the fiscal year, (relatively) finally, and (relatively) equitably. Boards should not be asked to take increased, if not total, responsibility for yo-yo budgets.

There are dangers in obligating all funds too early. There needs to be some reserve. In our reforming zeal to allocate all funds equitably, we may end up perpetrating, or allowing, some gross inequities in student instruction or care and find we have rendered ourselves impotent to resolve or alleviate even small but acute local problems.

In a system attempting to provide for (some of) the educational needs of students of different language and cultural background in 200 schools with very different geography and climate, there has got to be some 'give', some trust. In attempting to exorcise the inequities of institutional politics, we risk imposing the inequities of the proverbial Procustean bed: of 'stretching' or 'shortening' school programs to 'fit' the formula that was meant to serve the schools.

More specifically, our specific comments and recommendations on the current proposed rules tend to cluster around several general concerns: 1) A failure in some sections to take into account differences in the responsibilities and legal status of Bureau and contract school Boards: inadvertently imputing to various officials of the Bureau the power to unilaterally "adjust" contracts and/or contract amounts. 2) What seems to us a shift in favor of off-Reservation high schools which, given a finite amount of money, tends to decrease instructional and transportation monies for day students. If so, this ill accords with the proposed statements of policy in Parts 31a advocating respect for the family, an opportunity to attend day schools close to home, etc. We are particularly concerned about the possibility that a failure to adequately fund school-home transportation adequately the first year could lead to a vicious cycle of decreased funds leading to driver lay-offs leading to a decrease in day students leading to still further decreases in funds... 3) A failure to specify that the revision of these formulae, as well as the completion of certain as-yet-uncompleted tasks, will be done as publicly as the drafting of these formulae and proposed rules. 4) A number of apparently unrelated matters relating to definitions, procedures, and inconsistencies.

All in all, given the time this Committee had to work, we think they have done well. We do hope that the Bureau, and the Congress, will exercise a certain amount of discretion during the first two or three funding cycles.

Our second major area of concern is with standards, to be ready this time next year.

Our experience as contract schools trying to assist one another has led us to a certain humility about knowing what's good for others: all too often we've found that one school's 'solution' might well be another school's disaster.

Congress has got to ask for national standards. The Bureau's got to try to set such standards. But both must retain some degree of honest doubt about the efficacy of standards.

I sincerely doubt that standards, in and of themselves, will improve the quality of student instruction or care. At best, they eliminate or minimize the grosser sorts of 'bad' actions or activities. At worst, they so entangle even 'good' people in the attestation and verification process that they no longer have time to do 'good' things.

While it may be possible to prevent certain bad actions by 'standards', it is almost impossible to cause certain 'good' things. The only thing we can hope to do is to try to set up standards and procedures whereby, while preventing really 'bad' activities, we make possible more 'good' activities. 'Good' people can make 'good' programs despite an absence of 'good' standards; 'bad' people can make 'bad' programs despite 'good' standards. My concern is that the construction of detailed standards may very well result in sets of standards, backed up by financial formulae, which impose from afar inappropriate programs on (some) local Boards or so tie up their supervisors in filling forms to verify compliance with standards that they have no time to develop and operate meaningful programs. As one who has been both a Bureau and a contract school supervisor, I can say that most Bureau principals are overloaded now with responsibilities for property, personnel, payroll etc. Title XI increases his/her responsibilities for working with the Board and for the financial management of the school. Title XI adds no administrative, financial, or clerical assistance at the local school level. Now next year new responsibilities for meeting national standards will be added. None of these activities, in and of themselves, cause better education; supervisors may have 'no time' for education. We really shouldn't be too surprised if some of the better principals quit, the plodders plod on, and there is relatively little (or no) improvement in the education or care of Indian children.

It has been fashionable to kick the Bureau for as long as any of us can remember. My perception, having been a Bureau principal, is that we may never know whether or not the Bureau can, or cou[illegible] Indian children. Much of what we damn about the Bureau [illegible] the government. The Bureau is one more people organ[illegible] is accountable to the OMB for budget, GAO for finance, GSA for [illegible], vehicles, and supplies, CSC for personnel, etc., etc., etc.,

What contracting did, up until four years ago, was to take a school out of much of this. Relatively free of regulations, schools were forced to develop their own programs (and their own regulations). Some did 'better' than others, perhaps. But all did at least as well as the Bureau schools. In recent years, however, contract schools too have become increasingly caught up in regulations; it remains to be seen how Title XI will affect contract schools.

Now Title XI grants Bureau boards considerably more power than they have ever had before. But, at the same time, it threatens to limit the Board's role to approving or rejecting the principal's budget and personnel with which he will run a standardized program "made in Washington" by standards and formula. If, indeed, this is what standards and formula become, we should not be surprised if boards, if they don't lose interest at all, tend to concentrate on personnel actions, thereby proving to detractors that "all they're interested in are jobs".

There have got to be ways found to enable boards and their supervisors to devise and implement program within certain financial guidelines and minimal standards. I urge this SubCommittee, in it's oversight role, to try to 'leave room' for the local initiatives without which there will be no 'good' programs.

b) transition process

The next few years will be painful years for Bureau Education people. There are going to be many problems in reorganizing the Bureau. In splitting the Bureau vertically into Education and non-Education, there are many problems of how horizontal integration will be achieved. In at least beginning to empower local Boards, there are new roles for Board members, local supervisors, school employees; it will take time to work these out. In having employees at any given school in two personnel systems there are going to be some tensions and problems for some time.

Leadership and continuity will be of extreme importance. The principal's role, and particularly the role of the agency school superintendent, will be critical; they must attempt to meet the wishes of the communities (as expressed by the boards) while maintaining the laws, the regulations, and responsibilities of the government. The agency school superintendent's will be a demanding, often thankless, job. Whether good people are found, and retained, will depend in large part on the kind of support they get from the so-called support services.

These are going to be frustrating years for everybody involved with Bureau-operated schools. Yet empowerment has got to start somewhere; we're trying to make up for a century, at least four generations, in which Indian parents have had little or no power over the instruction or care of their children.

There will be frustrations and there will be mistakes. We urge forbearance on the part of the Bureau and the Congress. We especially urge the Congress to avoid simplistic solutions to Indian education 'problems'. Many of the simple 'solutions' proposed to date may 'simplify' Indians out of existence; they may relocate responsiblity for Indian education without giving Indian parents, communities, or tribes any more ability to affect their children's education and care than they now have.

c) We have some concerns about what appears to us to be unfinished business in Title XI. Most of these relate to the dual personnel systems.

i) Rock Point "went contract" in 1972 with just such a dual system: "Board" employees and Bureau (Civil Service) employees. In 1977, the Board took over the 17 remaining Bureau positions they had not acquired by attrition. Thus Rock Point is one of the few schools, if not the only one, that has made the transition from Civil Service to local contract personnel implied by Title XI. Rock Point made it work. But we wouldn't recommend it.

Despite any and all attempts to keep pay comparable, there will always be a difference in relative job security which will lead to overt or covert divisions in the school staff into older, more highly-paid, 12-month employees feeling beseiged and younger, less highly-paid, less job-secure, 10-month employees resentful of the differences in workyear, yearly salary, and security.

I don't know what the legal and political realities were that led the Committee to reject the notion that all school-level employees be made Title XI "contract" employees. I would urge that the matter be reconsidered.

ii) There is some question in my mind as to whether or not Title XI resolves or perpetuates a pay problem in the Bureau in §1131(h)(1). The Bureau appears to make use of (at least) two pay schedules: what one might think of as a 'white-collar' (GS) and what one might think of as a 'blue-collar' (WG/WL/WS) schedule. The white collar schedule has been going up overall roughly 5% per year while the blue-collar schedule has been going up more like 10% per year. The result is that once comparably paid positions are no longer comparable. Bus Drivers and Cooks make more money, for the same number of years on the job, than do teachers; Head Cooks more than Principals. It would appear that Title XI has not given Boards or the Bureau authority to realign these salaries as most contract schools have done. This would best be done by making all school-level employees Title XI contract employees on a single pay schedule. If this is not possible, changes in the Civil Service positions, or classification should be looked into. An important factor in the recent reduction of bus driver positions, and thereby the number of day students next year, on this Reservation is salary costs: a new 10-month teacher 'costs' $8.5m or $10.5m; a new 12-month driver 'costs' $14.1m.

iii) We are concerned about the abilities of Bureau Boards to effect changes in personnel fast enough to accept responsibility for school budgets. A hypothetical but very possible scenario: Tight Rock school had 200 students in Feb-March. The following Oct.-Nov., they have only 180. Come January (if then), the Tight Rock board learns that they've 'lost' c. $15m. They decide a teacher must go. A RIF (Reduction-in-Force) is conducted by the BIA Personnel office. This Civil Service procedure, fully protecting the employee's rights, takes four months: Feb.-May. On June 1, a teacher is terminated. But the Board now learns that they owe the teacher four months severance pay (under Civil Service Regulations). After eight months of heartache for everybody, the Board hasn't cut a dime and either defaults on contracts with contract personnel or goes into the red. Which leads those who knew it all the time that "Indians just don't know how to manage money".

These are some of our concerns related to Title XI. Despite our concerns we are still, deep down, optimists. Despite the so-called 'backlash', and despite the increasing pressures on Indian tribes to 'share' energy resources, this bill was passed. We very much regret some of the compromises that had to be made. But Title XI holds hopes of reorganizing Bureau education more rationally, of distributing money to schools more equitably, of starting to empower local Indian community Boards. The people who drafted, and redrafted, and re-redrafted the bill(s), and those who worked to get it included in HR 15 and passed, and those who voted for this bill and urged their colleagues to do so, are all to be commended.

Five years from now, I hope we might look back and say, "It was only a first modest step in the right direction." But now it is important that the sober responsible work of trying to implement this act go on, that we avoid urgings to try to computerize reality or to turn it all over to the someone else. This is the most promising change in Indian Education since the New Deal; with all its flaws, it has got to be made to work.

-Wayne HOLM
Rock Point
June 1979

COMMENTS ON PROPOSED

RULES 25 CFR Chapter 1,

Subchapter E, Part 31h,

"Indian School Equalization Program"

as Published in the Federal

Register of May 22nd, 1979

Rock Point Community School Board
Rock Point Community School
(via) Chinle, Az. 86503
June 15, 1979

CERTIFICATION

We have reviewed drafts of these comments on those Title XI regulations published in the Federal Register of May 22nd, 1979, made revisions in the comments where we thought necessary, have approved these comments, and are having them submitted on our behalf.

Approved by a vote of 6 to 0 on this, the 11th day of June, 1979.

Kim L. Nih
Kim L. Nih, Chairman

Harry T. Begay
Harry Tso Begay, Member

Kee Pahe
Kee Pahe, Vice-Chairman

Frank W. Begay
Frank W. Begay, Member

Tapaha Begay
Tapaha Begay, Treasurer

Paul J. Jones
Paul J. Jones, Member

Comments on Part 31a (25 CFR)

Indian Education Policies

1. §31a. 1: This section indicates that the stated policies are applicable to schools under the jurisdiction of the Bureau. It specifically states that contract schools may develop independent policies, or adhere to these stated policies.

There are several policy statements that could readily be acknowledged by contract schools without impingement.

Para. 31a.4(x) Suggests that the Bureau may move to press accountability via evaluations of "all Bureau-operated or funded education programs."

Para. 31a.4(y) states that the Bureau will encourage and assist schools, Bureau-operated and contract, to meet accreditation standards, either Tribal, State, National, or Regional.

Since this section is "optional," I haven't tried to analyze more impact than the above.

Comments on Part 31b (25 CFR)

Transfer of Indian Education Functions

There appears to be 2 major considerations for contract schools herein.

1. Para. 31b.2(e) and Para. 31b.5 indicate that "contract operations" shall be performed by the Area Director's office, together with other functions such as JO'M, off-reservation boarding schools, etc. For Bureau schools, the main line of authority is the Ass't. Sect., Indian Affairs to Director, Indian Education Programs, to the Agency Superintendent for Education (for elem. and sec. schools).

However, in Para 31h.54(b) indicates that the Agency Superintendent for Education will effect and modify contracts for contract schools.

This point should be clarified.

2. The second major question is on "support services." Although not named, Facilities Management should come to mind here. The regs say that at some point procedures to govern support services needs to be drafted, compatible with existing laws, regs, Executive Orders, etc. Such procedures will be a part of BIAM.

This whole area seems too slim. Contract schools are not noted. Perhaps it is too early for such regs to be drafted, but considering the impact support services have on education, procedures should become available with the rest of the package.

§31h.1 Purpose and Scope

citation:

"These rules apply to all schools...which are funded through the...Equalization Program."

comment:

The law clearly intends for the formula to apply to "contract" schools as well as to Bureau schools. But the rules, as proposed, effect contract schools in ways that could not have been intended.

There are several alternatives:

a) note for each section the scope of application;

b) note those sections that do not apply to contract schools;

c) separate the rules for Bureau and contract schools.

There may be some problems in the application of this formula to some previously-private "contract" schools. a) A number of these schools have not received funds or services from Facilities Management. This has forced them to use Education funds for maintenance, operations, and custodial care. This is no longer possible, or desirable, under this formula. This matter must be resolved; funds must be found. b) It is our impression that some "contract" schools either do not, have been told they can not, receive "indirect costs" for centralized administration Indian Contract Support Funds Other (tribal schools) receive such funds but at a rate set for the tribe as a whole, a rate which may be inadequate for, or not actually expended for, the schools. This has forced these schools to use Education funds for centralized administration in a way that schools contracted by a tribal organization do not. (This matter does not appear to be addressed by these regulations) However, the law and the regulations do call for "uniform" and equitable funding and the regulations do insist that "all funds...shall be...distributed through the I...S...E...P... . To the extent that these problems cause inequities, they are of concern. The Committee is asked to work with the Deputy Ass't Secretary's office to effect interim (if necessary) and long-term solutions to these PL 93-638-related problems.

Yet another problem not dealt with by the formula is the question of the use to which rent money will be put. It has been the practice of the Navajo Area, and (we assume) the Bureau to budget for salaries less rent. This gives the school the benefit of the rent. (E.g.: employees cost $10m; rent is 1m. A school can hire 11 employees for $99m instead of only 10 for $100m)

If support services, including, Property Management, is left as is, in the Area Office, there are questions: a) how use of, and access to, buildings including quarters will be handled and b) how rent deriving from the rent of government quarters will be collected or applied.

alternative:

NO ALTERNATIVE WORDING WILL BE SUGGESTED HERE AS THIS SEEMS TO BE A STATUTORY REQUIREMENT.

THIS WORDING, HOWEVER, MAY REQUIRE ALTERNATIVE WORDING IN OTHER SECTIONS.

§31.2 Definitions

citation:

(f) "Average daily membership" or "ADM" means the average of the actual membership of the school,..." Only those qualified Indian students shall be counted...

comments:

(1) The definition given in .2(f) appears to be an average of the weekly membership for the two count-weeks. The count process given in .32 appears to be an average daily attendance for the ten days of the count weeks. See our comments after .32 for an example of the potential disparity of the results.

It is our opinion that the process given in .32 is the more equitable; the process implied in .2(f) lends itself more easily to the machinations of count-wise administrators who need only find a way to entice (or force) students onto campus once during either or both count-weeks.

Either way, the definition in 2(f) and the process in .32 must be made consistent with one another to ensure that the count IS performed in the same way for all schools.

(2) The term "qualified" Indian student is not, itself, defined, leaving it open to later, conflicting, definitions. The term "eligible student" is defined below in 2(j). It would seem more reasonable to use the defined term.

alternative(s):

ONE ALTERNATIVE WOULD BE TO DEFINE ADM AS THE PROCESS GIVEN IN .32:

(f) "Average daily membership" or "ADM" means the average of the **actual membership** cumulative total of eligible Indian students in actual attendance at that school half-day or more during the ten days of the count weeks for each student classification given separate weightings in the formula. THIS HAS THE ADVANTAGE THAT MOST OF THE KEY TERMS ARE FURTHER DEFINED IN .30: "cumulative total" in (c), "count weeks" in (b), AND "student classification" IN (d). THE DEFINITION PICKS UP THE KEY IDEA IN (f)(2): "at that school" = "not...enrolled in any other school" BUT MODIFIES THAT IN (f)(3): STUDENTS WOULD BE "in actual attendance" FOR THAT day IF PRESENT HALF DAY OR MORE RATHER THAN "IN ATTENDANCE FOR THAT week IF PRESENT "one full day". THIS LEADS BACK TO THE PROBLEM NOTED ABOVE AND WOULD EXCLUDE HALF-DAY KINDERGARTENS COMPLETELY. ANOTHER ALTERNATIVE WOULD BE TO SIMPLY ADMIT THAT 32 REQURES AN ADA, OR A SAMPLE ADA, RATHER THAN AN ADM AS IT IS USUALLY UNDERSTOOD. IF ADOPTED, THIS WOULD REQUIRE THE SUBTITUTIONS OF THE TERM ADA (or SADA) for ADM THROUGHOUT THE TEST OF 31h.

Only those **qualified** eligible Indian students shall be counted...
THE QUESTION OF WHETHER THIS, AND (f)(1-3) ARE STILL NECESSARY WOULD DEPEND ON THE DEGREE TO WHICH THE MATERIAL IS INCORPORATED (with MODIFICATION OF 3) INTO THE PREVIOUS SENTENCE.

§31.2 Definitions

citation:

(q). . . A school may be located on more than one physical site. ...

comment:

This may be desirable for situations such as Kaibeto, Rough Rock, Ramah and others serving the same community. It may even be desirable for a situation such as AIS and IAIA if the communiti(es) involved concur. We do not feel it would be desirable to reduce a set of separate schools within a given agency to 'a single school with multiple sites' unless such an action is approved by the communities. We wouldn't be so concerned about this if we hadn't heard of several Agencies where the E.P.A. was talking of going to the Council for approval to do so for the basic purpose of retaining discretion over transfer of funds from one school to another.

We take the statement of policy of Indian control of education in §1130 to imply Indian control at the lowest feasible level: the community. We would oppose a definition which allowed the conflation of schools in several communities against the wishes of the people in those communities.

alterantive:

(q). . .A school may be located on more than one physical site~~.~~ within the same community or in several communities with the concurrence of a majority of the parents in those communities, except...

§31.2 Definitions

citation:

(r) "School board" when used with respect to a Bureau school, means a body chosen in accordance with the laws of the tribe to be served or, in the absence of the absence of such laws, elected by the parents of the Indian children attending the school...

comments:

(1) The apparent restriction of the requirement that the Board be chosen in accordance to tribal law to Bureau[-operated] schools seems, at first, unnecessary. It may be necessary, however, because of the existence of non-community-based special purpose schools for gifted or handicapped students whose boards cannot be elected on a community basis. The PL 93-638 requirement that requests to ammend, re-contract, or enter into contract seems to assure tribal concurrence with not only the proposed contract but the means of school governance proposed (§271.

(2) The second part of the definition seems to have the inadvertant effect of allowing the committee of a single funding source to serve as the "school Board". This might be no problem if the school had a single such committee (although it extends the powers of that committee beyond those the parents thought they had when electing them). But it might lead to serious problems of precedence where there are a multiplicity of such committees.

This might be resolved by some statement of purpose.

alterantive:

(r) "School board" when used with respect to a Bureau school, means a body chosen in accordance with the laws of the tribe to be served or, in the absence of such laws, elected by the parents of the Indian children attending the school for the purpose of managing the total school program, except... SOME OTHER TERM THAN MANAGING MIGHT BE CHOSEN IF THIS CAUSES PROBLEMS.

§31h.11 Definitions

citation:

(e) "Kindergarten" means...a student who is...a member of an educational program...conducted at least five hours daily..."

comment:

It is my impression that the Bureau has, in the past, advocated kindergartens with five hours or less. It was felt that young children should not be in an all-day program.

Because of the urban model for many/most Bureau kindergarten programs, students spend a considerable amount of time in other-than-academic activities: bathing, grooming, setting tables, eating, cleaning up, napping, and playing.

The definition, as written, will encourage schools to put/keep kindergarten students on the regular bus routes, keeping them at school for long/longer periods of time, filling up the time with non-activities such as those noted above. While this may (or may not) be more "cost-effective" (depending on how cost-effectiveness is defined), it is NOT in keeping with the Bureau's stated policies of strengthening/maintaining the integrity of the Indian family (31a.4(e).

alternative:

(e) "Kindergarten" means a weighted program for a student who is present during count week (see §31h.30(b)) who is at least 5 years old by

December 31 of the fall of the school year during which the count occurs and a member of an educational program approved by the school board conducted at least ~~five~~ four hours daily and in which, in addition to any other activities, students participate in at least 150 minutes of academic instruction daily during at least 175 days per school year. Otherwise eligible students who are in a program in which they participate in 60-150 minutes of academic instruction and which is conducted less than ~~five~~ four hours daily, but more than two and one half hours daily are eligible as "half time kindergarten" students.

§31h.11 Definitions

citation:

(f) "K-3 intense bilingual" means...a student who is...receiving special supplementary services for bilingual education needs.

comment:

The wording is unfortunate. Bilingual programs need not be "supplementary". Such programs should be basic developmental programs for monolingual students.

The definition provides support only for transitional bilingual education programs. Better wording would provide a weight for a student "who receives academic instruction in his/her weaker language and through both languages---thereby funding maintenance bilingual education now, not later; before Lau comes home to the Bureau.

The problem confronting the Committee is that of providing funds for bilingual instruction without unduly restricting the range of variation in bilingual education programs intended to meet the needs of different language communities and situations OR of unduly 'cheapening' the value of the WSU.

The Committee attempted to resolve this dilemma by restricting such funds to K-3 students from non-English-speaking homes. The effect of this definition is, unfortunately, predictable: data received to date, for example, suggests that the bilingual "supplement" will be claimed for all, or almost all, the K-3 students in Navajo Area schools. Most of these schools do not now have anything remotely resembling bi-lingual instruction; we suspect that few intend to implement such programs this next schoolyear. The effect of the current definition will be to 'cheapen' the value of the WSU without effecting any real increase in the extent or quality of bi-lingual education in Bureau-funded schools.

("Bi-lingual education" should not mean the monolingual (English) instruction of monolingual (non-English-speacking) students. Neither should it mean the monolingual instruction (non-English) of monolingual (non-English-speaking) students with no provision for more specialized instruction in English. "Bi-lingual education" should be just what it says: a carefully planned and conducted program of academic instruction in and through two languages.)

The alternative definitions proposed below have been worked out rather carefully to a) provide funds for honest bilingual programs in Bureau-funded schools, b) while withholding funds from programs that are not truly bi-lingual, c) without imposing unduly narrow standards on what constitutes a bilingual education program. These definitions should a) avoid unduly 'cheapening' the value of the WSU b)and of encouraging the development of honest community-appropriate programs of bilingual education.

We urge the Committee's careful review of these proposed alternatives.

alterantive:

(f)(1) "K-3 intense bilingual means a weight for a student who is present during the count week (see §31h.30(b)) ~~in kindergarten through grade 3~~ whose primary language is not English, and who is receiving ~~special supplementary services for bilingual education~~ portions of the basic educational program daily, including both literacy and at least one academic subject in the native Indian language and specialized instruction in English-for-non-native-speakers-of-English (i.e., an intense bi-lingual program), such native-Indian-language instruction being funded by Bureau funds.

(f)(2) "oral-only bilingual" means a weighted program for a student who is present during the count week (see §31h.30(b)) whose primary language is not English, and who is receiving portions of the basic educational program daily, including at least one academic subject in the native-Indian-language as well as specialized instruction in English for non-native-speakers-of-English (i.e., an intense bi-lingual program but without an initial native-language literacy component), such native-language instruction being funded by Bureau funds.

(f)(3) "native language maintenance or revival" means a weighted program for a student who is present during the count week (see §31h.30(b)) whose primary language is English, but is receiving at least 30 minutes of instruction daily at the school in and/or through the native language, such instruction being funded by Bureau funds. (This would allow instruction in the native Indian culture if conducted through the native language.)

THE TERMS "K-3" ARE REMOVED TO ALLOW THE FUNDING OF TRUE BILINGUAL PROGRAMS TO ALL GRADE LEVELS; 'TRUE' BILINGUAL PROGRAMS ARE TIGHTLY CONSTRATINED BY THE PHRASES THAT FOLLOW.

AN "INTENSE BILINGUAL" PROGRAM MUST INCLUDE PORTIONS OF THE "BASIC [EDUCATIONAL]

PROGRAM" (§31.10(b); I.E. IT MUST INVOLVE DAILY ACADEMIC (NOT "CULTURAL") INSTRUCTION. SUCH INSTRUCTION MUST INCLUDE NATIVE-LANGUAGE LITERACY, AT LEAST ONE ACADEMIC (NOT "CULTURAL") SUBJECT, AND SPECIALIZED INSTRUCTION IN ENGLISH; I.E., NO ONE OF THESE THREE ALONE WILL BE CONSIDERED AN "INTENSE BILINGUAL PROGRAM". AN "ORAL-ONLY BILINGUAL" PROGRAM WOULD BE SIMILAR TO THE "INTENSE BILINGUAL" PROGRAM EXCEPT THAT IT DOES NOT INVOLVE NATIVE LANGUAGE LITERACY.

A "NATIVE LANGUAGE REVIVAL" PROGRAM MUST INCLUDE AT LEAST 30 MINUTES DAILY INSTRUCTION AT THE SCHOOL IN OR THROUGH THE NATIVE INDIAN LANGUAGE TO STUDENTS WHO DO NOT SPEAK THE LANGUAGE (WELL). IT MAY OR MAY NOT INCLUDE NATIVE LANGUAGE LITERACY. IT MUST BE SYSTEMATIC, NOT OCCASIONAL; A 30 MINTUES DAILY MINIMUM. IT MUST BE AT THE SCHOOL TO PRECLUDE CLAIMS THAT "WE HAVE THIS DONE AT HOME"; IF IT WERE BEING DONE AT HOME.

THE TERM "NATIVE INDIAN LANGUAGE" IS USED TO PRECLUDE THE FUNDING OF INSTRUCTION IN A NON-INDIAN LANGUAGE (SUCH AS FRENCH OR SPANISH) OR INSTRUCTION IN AN INDIAN LANGUAGE NOT THAT OF HIS PARENTS OR HOME (SUCH AS TEACHING KERES OR IN KERES TO STUDENTS FROM TEWA-SPEAKING COMMUNITIES JUST TO INCREASE THE COUNT OF STUDENTS IN THE PROGRAM).

NATIVE INDIAN CULTURE COULD BE INCLUDED IN ANY OF THESE THREE PROGRAMS, INCLUDING THE "NATIVE LANGUAGE MAINTENANCE OR REVIVAL" IF TAUGHT THROUGH THE NATIVE INDIAN LANGUAGE, SUCH PROGRAMS CONDUCTED THROUGH ENGLISH SHOULD BE CONSIDERED AS PART OF THE SOCIAL STUDENTS COMPONENT OF THE "BASIC [EDUCATIONAL] PROG[illegible] TO BE SPELLED OUT IN THE STANDARDS.

§31h.11 Definitions

citation:

NONE

comments:

There is need for a funding differential for grades 4-8 that are taught in self-contained elementary fashion or in departmentalized JH-middle school fashion.

This definition is intended to define and justify a different weight for the latter in .12.

alterantive:

(g) "JH-Middle School" means a weighted program for a student who is present during the count week (see §31h.30(b)) in a program in grades 7-8 (junior high) or 6-8 or 5-8 (middle school) which is i) departmentalized, ii) offers academic courses not usually offered in elementary programs, and iii) offers vocational and/or career education courses.

IF INCLUDED, THIS WOULD REQUIRE CURRENT (g-i) TO BE RELITTERED AS (h-j).

§31h.11 Definitions

citation:

(h)(10) "Visually handicapped" means a visual impairment... The term includes both partially seeing and blind children."

comment:

The comment has been made (by Borrego Pass?) that this definition, coupled with the weights given in .12, have the unfortunate effect of establishing the same weights for hard-of-seeing and for blind students. It seems obvious that considerably more care will be required for totally blind studnets.

alternative:

CHECK 94-142 REGS AND PROGRAMS. DEFINITIONS (.11(h) AND WEIGHTS (.12) MAY BOTH HAVE TO BE CHANGED.

§31h.11 Definitions

citation:

i) "resident" means a student receiving supplemental services provided to all students who are provided room and board in a boarding school or a dormitory for at least four days and four nights per week during those weeks when student membership counts are conducted. ..."

comment:

There seems to be some confusion here.

We take the words "four days and nights per week" to define what a resident is. We take the statement in §31h.2(f)(3), "at least one full day during the count week" to state how the "annual computation of average daily membership" (§31h.32) is to be taken.

In the oral presentation at Denver May 9th, it was stated that the four days and nights was intended as part of the mechanics of counting. If so, the wording there, here, and in several other sections needs to be changed.

Furthermore, "resident" should be defined to preclude housing kindergarten students which is contrary to current Bureau practice and proposed policy (§31a.4(e,i,p).

The Committee confronts a dilemma in defining resident membership. If "membership" is defined as present once during the count week, some money-hungry supervisors in day-and-boarding operations might be tempted to have day students 'sleep over' one night during count week to bolster resident "membership" if "membership" is defined as four days and nights, schools may fail to receive entitlement for (a) student(s) who were present only three days or nights during the count week. And the use of the (S)ASA instead of the ADM might encourage some money-hungry supervisors to have residents who might otherwise go home Friday afternoon to 'sleep over' Friday night to bolster resident "attendance".

However this problem is resolved, "resident" should be defined to preclude housing kindergarten students. The proposed definitions of "kindergarten" (.11(f)) and "resident" (.11(i)) and the weights in .12 and .13 result in a situation were:

> a kindergartener in a 5 hr + program and residing in the dormitory would receive a value of 2.4 WSU (1.0 instructional + 1.4 residential) or c. $4,320.; while a kindergartener in any program of less than 5 hours and on a bus route would receive a value of .5 WSU or c. $900 plus whatever is derived from the transportation formula.

If boarding kindergarten students and keeping kindergarteners in class for at least 5 hours, regardless of what is done in those 5 hours, brings, the school almost FIVE TIMES AS MUCH as a transporting them on the bus and keeping them for less than five hours, it would be surprising if some supervisors didn't start boarding kindergarten students and lengthening kindergarten hours.

Both practices are contrary to current Bureau practice; these definitions and weights have the effect of setting new (and undesirable) standards and policy.

alternative:

i) "resident" means a student (at least 6 years old by December 31 of the fall of the school year during which the count occurs) receiving supplemental services provided to all students who are provided room and board in a boarding school or a dormitory for at least four days and four nights per week...

CLARIFICATION OF THE QUESTION OF WHAT CONSTITUTES MEMBERSHIP FOR A "RESIDENT", ONE DAY OR FOUR DAYS AND NIGHTS, IS LEFT TO THE COMMITTEE.

§31h.12 Entitlement

citation:

	BASIC PROGRAMS	
	Kindergarten	1.00
	grades 1-3	1.20
	grades 4-8	1.00
	grades 9-12	1.30
...	SUPPLEMENTAL PROGRAM	
	grades k-3 Intense Bilingual	.20

comments:

We would disagree with these weights. Our basic concern is that instructional costs are, in most cases, no higher than residential costs. It's our impression that those costs on the Navajo and those indicated by the Odden report are not comparable. The Bureau has probably not funded residential programs adequately. But we are concerned that the proposed weights tend to reward Bureau-funded schools for keeping students in dormitories, or even for bringing day students back into dormitories. Unless the formula consciously puts more money into instruction and transportation, this will continue and probably get worse. Unless the Bureau consciously sets up incentives to schools to shift students from boarding to day wherever possible, it will not happen. A graded supplement for documented residential needs might take care of those students who absolutely must be in dormitories.

But unless the Bureau consciously sets up incentives to schools to shift students from boarding to day wherever possible, it will not happen.

kindergarten

grades 1-3

grades 4-8

Kindergartens in the pas have been staffed (in Bureau schools) with a teacher and an aide for (no more than) 20 students.

Grades 1-3 have been staffed on the basis of a teacher for 25 studnets, although 22-23 is a better guess about actual practice. (See the Odden report for some figures on teacher/pupil ratios.)

Grades 4-8 in self-contained classrooms have tended to be staffed on the basis of a teacher for 25 students.

Using these figures, we can derive the following information:

	no. of students	weight	value of USU	total money
Kg	20	1.0	$1800.	36,000.
1-3	22.5(?)	1.2	$1800.	48,600.
4-8	25	1.0	$1800.	45,000.

This allows considerably less money in the one area, kindergarten, where it has been customary to hire two people: a teacher and an aide. There have been some mis-perception that kindergarten teachers 'cost less'. Current Bureau practice is to pay kindergarten teachers the same; there are those that feel that kindergarten teachers should have early childhood certification and higher salaries. And while the Bureau does not pay aides what they pay teachers, it does cost more for a teacher and an aide (kindergarten) than it does for a teacher (1-3 or 4-8).

See the comments below on a supplement for middle-schools and/or junior highs.

See the comments on .2(f) "intensive bilingual".

.2 seems an indadequate weight for intensive bilingual education. Most Indian bilingual programs depend upon two teachers or a teacher and an aide. The one-teacher-who-talks-two-languages model, common in many Chicano programs, is not possible in many Indian communities.

	no of students	basic weight	supp. weight	value of USU	total money
Kg	20	1.2	.2	1800.	50,400.
1-3	22.5	1.2	.2	1800.	56,700.
4-8	25	1.0	.2	1800.	54,000.

It is felt that the definitions suggested above (.11(f)) would limit the number of schools to which the "intensive" bilingual supplement would apply would allow a higher supplement.

A graded set of supplements is suggested: .4 for an "intensive" bilingual program, .2 for an "oral-only" bilingual program, and .1 for a "native language revival" program in just those schools where the bilingual classrooms are not funded by another funding source.

Middle school - JH supplement

There is a difference in the costs of grades 4-8 in an elementary program (self-contained classrooms with a teacher for 25 students) and a 7-8 junior high or a 6-8 (or 5-8) middle school (departmentalized and one teacher to 15-18 students). The costs of such departmentalized programs should be almost as high as those of a high school.

alternative:

BASIC PROGRAMS		BASE WEIGHTS
Kindergarten	~~1.00~~	1.2
Primary: grades 1-3	~~1.20~~	1.2
Elementary: grades 4-8	~~1.00~~	1.0
Sr. High: grades 9-12	~~1.30~~	1.3
... SUPPLEMENTAL PROGRAMS		
~~grades-K-3~~ Intense Bilingual	~~.20~~	.4
Oral-Only Bilingual		.2
Native Language Revival		.1
JH-Middle School		.2

§31h.13 Entitlement for residential purposes

citation:

BASIC PROGRAMS	
Kindergarten	1.40
grades 1-3	1.40
grades 4-8	1.25
grades 9-12	1.25
INTENSE RESIDENTIAL GUIDANCE	.50

comments:

1) If the funding of residential care for kindergarten students is not against explicit current Bureau policy, it should be. Certainly it is contrary to the spirit of proposed policy: §31a.4(e) respect for family and §31a.4(p) education close to home. And it is to be hoped that the interpretation §31a.4(e) choice of school will foccuss on the "opportunity [or 5-year-olds] to attend local day schools" rather than the "option [of students, parents, and tribe] to [have 5-year olds] attend boarding schools.

2) It is the contention that the formulae proposed tend to increase funding for residential costs. It needs to be noted than a disproportionate number of the members of the Committee were from (off-reservation) boarding schools. They cannot be faulted, being acutely aware of the needs of such schools, of trying to improve the funding of such schools. But, given a finite budget, this can only be done by lowering funding for day instruction (and transportation?).

a) The formulae seem to increase the proportion of funds applied to residential schools.

i) The so-called "Odden report" displayed the following data on average School Operations expenditures per pupil (Table 10, p. 24):

	Day	boarding	ratio:B÷D
1974	1,224.	2,619	2.14
1975	1,615.	3,310	2.05
1976	1,656.	3,470	2.10
1977	1,989.	3,946	1.98

The report summarizes: "...boarding schools spend about double the amounts of day schools. It goes on to note that "a 75 percent sample of private schools that are members of the National Association of Independent Schools" found a comparable two-to-one ratio. (p.27)

ii) Navajo Area has attempted to make use of an Area formula for the last three years: FY's 77, '78, '79. (Odden's Table 4 (p.15) shows Navajo Area with the lowest "coefficient of variation" for all four years (1974-1977.)

Current (FY '79) figures, based on historical data, are:

	day	boarding	ratio: B÷D
elem.	2,257.	3,470.	1.54
JH	-	3,818.	-
SH	-	3,991.	-

iii) The proposed formulae must be combined to allow rough comparisons:

	Day(instr.)	Bdg(Instr + res.)
Kg	1.0	1.0 + 1.4 = 2.4
1-3	1.2	1.2 + 1.4 = 2.6
4-8	1.0	1.0 + 1.25 - 2.25
9-12	1.3	1.3 + 1.25 = 2.55

Using $1800. as the estimated "base" and translating these weights into dollar amounts, one learns:

	Day	Bdg	ratio: B+D
Kg	$1,800.	4,320.	2.4
1-3	$2,160.	4,680.	2.17
4-8	$1,800.	4,050.	2.25
9-12	$2,340.	4,590.	1.96

These ratios are higher than those for the Bureau as a whole for FY's 74-76 at all grade levels except 9-12; this is caused by higher instructional costs for 9-12, not by lower residential costs. These ratios are much higher than that of Navajo Area boarding schools. There is no doubt that schools with "intense residential guidance" programs need more money. This formula gives it:

Day	Bdg(w/IRG)	ratio: B+D
1,800.	5,220.	2.9
2,160.	5,580.	2.58
1,800.	4,950.	2.75
2,340.	5,490.	2.35

b) All Bureau-funded residential care programs are under-funded. Observers such as Bergman say the residential staffs would need to be tripled to begin to provide adequate residential care.

But the question remains: given, for FY '80, a finite budget, should residential care services be increased. And, if so, within a finite budget, at what activitie's expense? We would argue that, it is the lesser evil to knowingly 'underfund' residential care services than it is to underfund instruction (and transportation?) for day students.

c) To knowingly increase residential care funding at the expense of day instruction (and transportation?) funding will lead some supervisors (and boards) to put or keep some students in dormitories that could or should be day students not because this is 'good' for the children but because this will 'earn' the school more money and/or 'create' more jobs.

To knowingly allow such a 'street-policy' to flow from the allotment formula is contrary to the proposed policy in 31a.4 on strengthening or maintaining "respect for the family", of allowing parents the "opportunity to attend local day schools" by providing "education close to home".

d) The formula provides quite a bit. Real dormitory costs vary greatly with wing size; "wings" in Navajo Area dormitories probably vary from c. 36 to c. 64 students.

A "wing" of 40 students grades 1-3 might entitle school to $101m (40 x 1.4 x $1800. = 100,800.) for residential costs. Most or all instructional costs would (presumably) come from the instructional formula, most or all transportation costs from the transportation formula. This money would be needed for residential care, some additional food, some additional administration, and... for some services not offered to day students (but probably should be?). $101m would allow the salaries and benefits of eight 12-month GS 4/6 aides or ten 10-month GS 4/6 aides. (A GS 4-6 has eight-nine years experience). A minimum staff for a single wing would be three day aides, a night aide, and a second night aide shared with one or more other wings.

e) Given the findings of the Odden report, we would favor somewhat lower weights for residential care, weights more comparable to those proposed for instruction.

alternative:

BASIC PROGRAMS		
Kindergarten	~~1.40~~	NONE
grades 1-3	~~1.40~~	1.2
grades 4-8	~~1.25~~	1.1
grades 9-12	~~1.25~~	1.2
INTENSE RESIDENTIAL GUIDANCE		.5

§31h.14 Entitlements for small schools

citation:

...average daily...membership count (called x) of less than 100 students the formula [(100-x) divided by 200] times x shall be used to generate add-on weighted pupil units for each such school.

comments:

I would like to commend the Committee for trying to meet this need. If the Bureau is to consciously strive to maintain/restore the integrity of the Indian family, trying to educate the Indian child as close to home as is feasible, the formula will have to make sufficient money available for small community schools.

But after consultation with Don CREAMER of Borrego Pass, it is obvious that the formula proposed does NOT do what it is intended to do.

size of school	additional units	total basic units
10	4.5	14.5
20	8.	28.0
30	10.5	40.5
40	12.	52.
50	12.5	62.5
60	12.	72.
70	10.5	80.5
80	8.0	88.
90	4.5	94.5

The formula proposed was intended to deal with the fact that there are certain minimum costs at small schools regardless of size: e.g. one local school supervisor, at least one cook, etc. An adequate formula should find some minimum subsistence level below which no school would go; the smaller a school is, the more that would have to be added. The formula proposed has the peculiar defect of adding no more units for a school of 100 than it does for a school of 90. A school of 10 cannot be run for 14.5 WSU; a school of 20 cannot be run for 28. WSU; a school of 30 probably cannot be run for 40.5 WSU...

Don CREAMER has suggested an alternative formula. His proposed formula is as follows:

$$\left[\frac{100 - x}{200}\right] \cdot \left[\frac{75 - x}{2}\right] \cdot \left[x\right]$$

But working this formula through, (if we have it correct), we find that it more closely approximates what such a formula should do. But it seems to have the unfortunate defect of yielding negative weights for student poppulations in excess of 75.

size of school	additional units	total basic units
10	14.6	24.6
20	11.0	31.
30	7.87	37.87
40	5.25	45.25
50	3.125	53.125
60	1.5	61.5
70	.375	70.375
80	-.25	79.75
90	-.375	89.625

By altering one term in this formula, we obtain a formula which seems to work:

$$\left[\frac{100 - x}{200}\right] \cdot \left[\frac{100 - x}{2}\right]$$

Working this through, we obtain the following:

size of school	additional units	total basic units
10	20.25	30.25
20	16.0	36.
30	12.25	42.
40	9.	49.
50	6.25	56.25
60	4.	64.
70	2.25	72.25
80	1.	81.
90	.25	90.25

No formula will be completely satisfactory. Even if all employees were like-salaried, the staffing of small schools is not linear but increases in 'quantum jumps' of whole persons.

Some rough calculations of probable staffing of small schools suggests that \$50-\$60m might be the minimum for which a school could be staffed with a teacher-principal, a cook, food, and some supplies. I.e. with a "base" of \$1800., one would need the equivalent of c. 30 WSU.

It is suggested that farther work be done on this. It is suggested that the probable staffing and budgets of schools of 10, 20, 30... to 100 students be worked out and a formula worked out that yields at least these values.

A similar procedure will be needed for working through the small dormitory adjustment.

§31h.17 Recomputations of current year entitlements

citation:

...When changes occur...the Director shall make the necessary adjustments [in schools' entitlements]...

comments:

This section, cited in isolation or out of the context of PL 93-638 and contract law, might 'justify' unilateral "adjustments" in contract amounts. Bluntly put: a contract is not a contract if the amount can be "adjusted" unilaterally. If Boards are to be able to meet contractual obligations, the contract amounts must be set early, finally, and equitably.

alternative:

ADD: Nothing in this or other sections shall be understood as sanctioning unilateral adjustments in "final" contract amounts for contract schools.

§31h.18 Phase-in provisions

citation:

(a) Limits on excess gains

comments:

The intent of this provision is understood: there seems to be a concern that long-time underfunded schools will not be able to 'absorb' adequate funding wisely. A distinction needs to be made, however between schools that have been chronically underfunded and those that are experiencing increases in enrollment.

alternative:

ADD, AT THE END OF (a)

"except in those instances where the increases of 10% or more between the February-March and the October-November counts, having been verified, warrant larger increases in budget amounts. (SEE THE MECHANICS PROPOSED FOR 53(a))

§31h.19 Development of uniform, objective...critieria...

citation:

The director shall develop...criteria and guidelines...and shall publish them in the Bureau Manual and widely disseminate [these]...to each school prior to September 1, 1979...

comments:

These criteria and guidelines are intimately related to both the Formula and to Standards.

alterantive:

ADD: Changes in, or improvements of these criteria, guidelines or expanded definitions shall be worked out jointly with the Standards Committee and shall be published thereafter concurrently with the proposed Standards or revisions thereof.

§31h.20 Future considerations

citation:

comments:

This, too, should be public.

alternative:

ADD;

Any additional factors should be published in the Federal Register at the time the proposed Standards are published or the Formula or Standards are proposed.

§31h.21 Review of weighted factors

citation:

...the Director shall review the appropriations of all weighted factors...

comments:

We are concerned that we find no provision for ongoing revision of the allotment formula nor for public comment of revisions.

alternative:

ADD:

The current Allotment Formula committee of the Task Force will continue in operation for at least two additional cycles of application (through FY '82), and will be provided with sufficient information gathering, computer analysis, and other technical assistance to obtain Feedback on the consequences of the formula.

All future proposed revisions of the formula will be published in the Federal Register. Copies of proposed revisions will be sent to the supervisors and chief board officer of all Bureau and contract schools for comment before or by the date of initial publication in the Federal Register.

§31h.22 Review of contract schools['] supplemental funds.

citation:

NOT HAVING SEEN THE FEDERAL REGISTER YET, WE UNDERSTAND (AFTER THE DENVER MEETING) THE REVISED WORDING TO READ AS FOLLOWS:

Before the end of formula phase-in, the Director shall consider the impact on equalization of supplemental funds ~~from~~ appropriated for aid of schools under the Johnson O'Malley Act and under Title IV of the Indian Education Act, which are available to contracts [sic] schools but not to Bureau schools, and ~~make recommendations for~~ determine appropriate adjustments~~.~~, if any. [VERIFIED]

comments:

This language, seems to reflect a significant change: the Director does not "make recommendations", but "determines" whether or not JO'M and T IV funds shall be offset by "appropriate adjustments". It would appear that such "adjustments" may be made at any future time and in ignorance or defiance of the recommendations of the Allotment Formula committee.

We have very strong reservations about including "supplemental" funds in the formula. We are adamently opposed to the possibility of such a change being made without an opportunity by the Indian community to comment (i.e., through publication in the Federal Register).

1) It is Congress that made contract schools eligible for these funds: JO'M by PL 93-638, Title IV-A (LEA) by PL 95-561. Congress apparently felt that contract schools should be made eligible for these "supplemental" funds, knowing that Bureau schools were not eligible for these funds. The

Bureau should not hide behind Congress's skirts. If (members of) Congress is/are disturbed by this situation, the appropriate means of changing it is to change the law(s); it is not appropriate to try to change laws by writing contra-statuatory regulations.

2) These funds are said to be "supplemental": they are not to be used to "supplant" basic program funds. Including these funds in the funds to be 'equalized' will have the effect of reducing the amount of basic program funds to the contract schools. Thereby the contract schools are placed in a double-bind: if they use the supplemental funds to pick up activities which had been funded with basic program funds they are "supplanting" which is illegal; if they are scrupulously honest, they may lose not only some basic funds but must also forego the "supplemental" funds in question.

alternative:

ADD: The Director will not attempt to include supplemental funds in the formula without first obtaining legal advice from both the Bureau and the funding sources, notifying affected schools and boards, and publishing the proposed changes in the Federal Register of his/her intent to do so.

§31h.32 Annual computation of average daily membership

citation:

"... Averages shall be computed for each pupil classification...by computing the cumulative total of members in each classification for all school days in each of the two count weeks, and dividing that total by the number of school days in both count weeks."

comment:

The two ways this may be understood may best be shown by means of an example.

	October					November				
	M	T	W	Th	F	M	T	W	Th	F
A	X	A	X	A	X	A	X	A	X	A
B	X	X	A	X	A	A	A	X	A	A
C	-	-	-	-	X	A	A	A	A	X
D	-	-	-	-	X	X	A	A	A	A
E	-	-	-	-	-	-	-	-	-	X
F	-	-	-	-	-	-	-	-	-	X
G	-	-	-	-	-	-	-	-	-	X
H	-	-	-	-	-	-	-	-	-	X
present	2	1	1	1	3	1	1	1	1	5
members	2	2	2	2	4	4	4	4	4	8

a) One way of reading these regs would be to foccus on the statement cited above. Counting as a "member" any one who was present "at least one full day during the count week", one comes up with a "cumulative total of members" of 2 + 2 + 2 + 2 + 4; + 4 + 4 + 4 + 4 + 8 or 36; "dividing that total by the number of school days in both count weeks," 10, we obtain an ADM of 3.60.

b) In oral presentations and examples, the foccus seems to be on the sub-definition of "member" above. If the example above, there would be 4 members in the October count week and 8 in the November count week; these have then been averaged to show the ADM---in this case, 4 + 8 = 12 ÷ 2 (weeks) = 6.00.

The important things is that the method used is used by all schools.

alternative:

NONE OFFERED HERE

§31h.34 Substitution of a count week.

citation:

"A school may petition...to substitute another week in the same month for the specified count week...

comment:

A school might petition that the last week of November be substituted for the first week as the second specified count week. Schools are allowed two weeks to complete and submit a certified student ADM count (§31h.37(a). If one allows a week for transmission of this data, it might be the fourth week in December (Christmas week!) before the Director might have the data needed to begin computing the value of the WSU. The Bureau will be damned hard pressed to make a "second quarterly authorization to obligate to be apportioned during the first week of January...based on the fall count..." (§31h(b))

alternative:

"...A school may petition to substitute ~~another week in the same month~~ one of the preceding three weeks for the specified count week..."

§311.50 Definitions

citation:

(e) "Responsible fiscal agent"

comments:

Contract school Boards may choose other parties as the responsible fiscal agent(s). They should be able to do so.

alterantive:

(e) Responsible fiscal agent" means:

1) in Bureau-operated schools the local school supervisor... ; in tribally-operated schools, that/those parti(es) so designated by the Board in an action of record, the names to be incorporated in the contract.

§31h.51 Notice of tentative allotments

citation:

"The Director shall notify school administrators of funds based on February and March ADM count established under Subpart B no later than May 1 preceding the year for which the allotment is to be made as authorized by PL 95-561, section 1129, Title XI."

comment:

[illegible] problem, for "contract schools", is not with 51 but 52 and 53. The [illegible] of "approved apportionment schedules", "quarterly authorization[s] [illegible]igate" and periodic or un-negotiated "adjustments" is contrary to the intent of contracting in general, the intent of PL 93-638 "assuring maximum Indian participation in the direction of educational...services to Indian communities" (§3), and the intent of PL 95-561 "to facilitate Indian control of Indian affairs in all matters relating to education."

A contract is a set of promises. An Indian tribe or community promises to provide certain services; the Federal government promises to provide the funds.

Contract schools encounter for too many problems with cash flow now: once a contract has been negotiated, the Letter of Credit must be set up or the amount increased. Drawdowns must be made frequently to minimize cash on hand while keeping the school solvent. Quarterly authorizations are not only contrary to the intent and practice of contracting, they are one more un-necessary 'filter' on cash-flow.

Contract School Boards differ from Bureau boards in that they _are_ legally responsible for paying the just debts of the school in a timely manner. In Bureau schools, the Bureau not the Board will still be ultimately responsible for the school.

Contract operation differs from proposed Bureau operation in that most contract schools probably operate on a Letter of Credit and most probably provide monthly financial statements. In a Letter of Credit system, they can not draw down more than has been authorized. And, with monthly financial reports, they are less likely overspend. There are sufficient safeguards within the 638 process; more are not needed.

If contract schools are to be doled out "authority to obligate" money every three months and subject to frequent un-negotiated "adjustments" in their budgets, why contract?

One way of resolving this problem would be by the addition of a paragraph to .51 and minor additions or deletions to .52 and .53; alternatively the new material below might be made a new .52 and current sections .52-.56 renumbered as .53-.57 respectively.

alternative:

"The Director shall notify school administrators and boards of tentative allotment of funds based on February and March ADM count established under Subpart B of this part no later than May 1 preceding the year for which the allotment is to be made as authorized by PL 95-561, section 11129, Title XI."

This amount shall be the initial contract amount (for Education "direct costs") for contract schools. The entire amount shall be made available to the school by the means called for in the school's contract. The contract shall carry a clause stating that the final contract amount (for Education "direct costs") will be based on the certified fall count.

No later than 30 days after the President has signed the appropriation bill, or by January 1, whichever shall be later, the final contract amount (for Education "direct costs") shall be revised on the basis of the certified fall count ADM for that schoolyear. That entire amount shall be made available to the school by the means called for in the school's contract. Thereafter the contract amount (for Education "direct costs") cannot be decreased; except where it can be shown that there was an error in that school's fall count ADM; the amount can, under certain circumstances, be increased to conform to the intent of PL 93-638, section 106(h).

§31h.52 Initial allotments

citation:

"...The Assistant Secretary...shall make initial allotments for tribally operated schools to appropriate Agency Superintendents of Education, or as otherwise provided by the Director."

comment:

Why? PL 95-561 calls for "direct funding" (§ 1129)

If initial allotments to Bureau schools are to be given to "school administrators and boards [of Bureau schools]...no later than May 1" (§31h.51, why do otherwise for "tribally controlled schools"? Presumably Agency Superintendents of Education will be notified of the amounts initially alloted for Bureau operated schools etc.; they can be notified of the amounts initially alloted to tribally operated schools in the same manner.

alternative:

..."The Assistant Secretary... shall make initial allotments for tribally controlled schools to ~~appropriate Agency Superintendents of Education, or as otherwise provided by the Director.~~ the responsible fiscal agent of each such school as designated in the contract with that school.

§31h.52 Initial allotment

§31h.53 Calculation of quarterly authorization to obligate

Comments:

See comments on §31h.51

Alternatives suggested below are intended to limit the scope of these sections to Bureau-operated schools and offices.

alternatives:

§31h.52 Initial allotments

... Approved apportionment schedules will govern the authorized rate of obligation, for such Bureau-operated schools and offices. ...

§3152.53 Calculation of quarterly authorizations to obligate for Bureau-operated schools and offices

(a) The first quarterly authorization to obligate for Bureau-operated schools and offices to be...

(b) The second quarterly authorization to obligate for Bureau-operated schools and offices to be...

(c) The third quarterly authorization to obligate for Bureau-operated schools and offices to be...

(d) The fourth and final quarterly authorization to obligate for Bureau-operated schools and offices to be...

(e) The Director shall continuously monitor the processes by which the allocation of each school's entitlement is made and make appropriate adjustments in the amounts allocated to Bureau-operated schools as necessary.

§31h.53 Calculation of quarterly authorisations to obligate

citation:

"(a) The first quarterly authorisation to obligate...shall be calculated as thirty percent of a school's tentative allotment..."

comment:

This amount may be inadequate for a number of reasons: (i) Most (Bureau?) schools show some decline in enrollment and attendance through the year: the Feb-March ADM is lower than the Oct.-Nov. ADM. (ii) Salaries and costs can only be higher in the coming year than they are in the current year. Presumably, as more employees become "contract" rather than "Civil Service" employees, pay increases will start at the beginning of the (personal) contract year, rather than being spread out through the calendar year (for Personnel's benefit) as is the case for Civil Service employees. (iii) Costs will go up each year as long as inflation continues. Schools with a fixed budget on a August-June schoolyear but on an October-September fiscal year must be extremely cautious with funds during the 3rd quarter (April-June) to be sure they will have enough funds to open school and run till Sept. 30th with their remaining 4th quarter funds. Unless they have managed to 'get ahead' on equipment and supplies, they will have to restock during the 1st quarter (October-December). (iv) Schools do not expend funds at a uniform rate. Relatively lower costs are incurred over the summer months; this will become more pronounced in Bureau schools as more and more employees become 10-month employees. Schools will not need 25% (3 x 8 1/3%) of last year's budget October-December; they will need something more like 30% (3 x 10%) of this year's budget. 30% of last year's budget may be inadequate; in the case of schools with an expanding enrollment, this will certainly be inadequate. (v) Because of late counts from schools, or delays in Congressional action, it may be impossible to actually make second quarter funds available to schools by "the first week in January" (§31h.53(b)), thereby causing shortfalls at many if not most schools.

There are particular problems this first year (FY '80) if, as we assume, the transportation component will not be made a part of the first "quarterly authorization to obligate". This would cause problems for schools: a) where transportation costs make up a large portion of the school's budget, b) contract schools, and c) schools with increasing enrollments.

a) An extreme example of a day school situation might be Cottonwood. There tentative allotment was, I believe, $689m; we estimate the proposed transportation formula might give them an additional $188m for a total $877m. 30% of $689m is $207m; $207m, however is c. 24% of $877. It is not at all inconceivable that Cottonwood might need more than 24% of their FY '80 allocation to operate in October, November, and December.

b) If the wording proposed in .51 were accepted, there should be no problems with contract schools. If, however, the Bureau were to insist on authorizing contract schools to obligate only 30% of their tentative allotment, there will be problems. No one knows now how long it takes to transform an "authorization to obligate" into a contract amendment increasing (and rebudgeting) the contract amount into an amendment increasing the amount of the Letter of Credit, into a request for drawdown (against the Letter of Credit) into the deposit of funds in the school's bank account(s). If it took 'only' four weeks, it might be the second week of February before a contract school had second quarter money. Oct 1 - Feb 8 is 35% of a 12-mongh year, 43% of a 10-mongh schoolyear. It's unrealistic to expect a contract school to 'live on air' four times a year while the papers are being transmitted.

c) A hypothetical school has a tentative allotment of $100m from the Feb-May ADM count. In Oct-Nov, however, they have a real 15% increase in ADM. They receive an authorization to obligate $30m. But this is only 26% of the c. $115m their Oct-Nov. count will entitle them to. They may run out of money in December. There should be a mechanism whereby they could 'draw' against their 2nd quarter authorization until their count is verified, the "base" established, and the 2nd quarter authorization sent out.

alternative:

"(a) The first quarterly authorization to obligate...shall be calculated as thirty-five (35) percent of a school's tentative allotment for FY 1980 in subsequent years thirty (30) percent of a school's tentative allotment...as approved by the Director. If the certified ADM during the October count week exceeds that of the preceding February and March by more than 10%, the local school supervisor and Board may petition the Director for an earlier release of funds against their second quarter authorization, documenting the additional amounts that will be needed. Such release will be made unless the count or the documentation are shown to be in error. The money remaining available to the school for the second quarter must reflect both advances...

§31h.54 Apportionment of entitlements to schools

citation:

(b) Contract schools

The Agency Superintendent of Education...shall be responsible for effecting and adjusting contracts with tribally operated schools.

comment:

This sentence might be construed to authorize unilateral "adjustments" in contract school contract language or budgets. This would be contrary to accepted contract procedure, and the specific intent of PL 93-638 regs (§271.66) and PL 95-561 (§1130).

We assume that the intent of this sentence is to locate the responsibility for dealing with the contract schools when no one knows whether contracting will be an Area or Agency, and Education or Support Services, function.

alternative:

(b) Contract schools

The Agency Superintendent of Education...shall be responsible for effecting and adjusting contracts with tribally operated schools, in accordance with 25 CFR Parts 31 and 271, and the specific contract language of each contract.

§31h.55 Responsible local fiscal agent.

citation:

...(a) Expend funds solely in accordance with the local...plan..., unless this plan has been overturned under the appeals process.

comment:

This section is in apparent contradiction with §31h.64(d) which limits this process to Bureau-operated schools. .64(d), however, refers to "this subsection" (.64? Subpart E?); 55 is in Subpart D.

There seem to be two ways to resolve this. One would be to limit the scope of this section to Bureau-schools and offices. The other would be assume that .64(d) limits this to Bureau-operated schools and that all parties will notice this.

alternative:

The responsible fiscal agent shall:

(a) Expend funds solely in accordance with the local school board, unless (only in Bureau-operated schools) this plan has been overturned under the appeal process prescribed in these rules,...

§31h.60 Definitions

citation:

comments:

See comments on .55(a)

alternative:

(b) "Local educational financial plan means that plan which programs dollars for educational services for a particular Bureau operated or funded school which has been ratified in an action of record by the local school Board, or (only in Bureau-operated schools) determined by the Superintendent under the appeal process set forth in this part.

§31h.62 Minimum requirements

(c) A budget...[of a form to be]...determined by the Director of a uniform cost accounting system related to the Indian School Equalization Program.

comment:

It is nowhere stated when or how this uniform cost accounting system will be developed.

While somewhat reluctant to urge that such a system be made regulatory, we would urge that a) such a system be kept as simple as possible for small schools, b) that the primary purpose of such a system be to provide information to local boards, and c) that contract schools be allowed their own systems as long as these meet certain minimal standards.

§31h.62 Minimum requirements

citation:

(f) A provision for certification by the Agency Superintendent of Education...

comment:

This is inappropriate for contract schools; such a review should be made only as part of the 638 (re-)contracting or contract amendment process. As noted earlier, the appeal process does not apply at all.

alternative:

(f) A provision (for Bureau-operated schools only) for certification by the Agency Superintendent of Education...

§31h.78 Establishment of a[n]...implementation set-aside...

citation:

"...there shall be set aside an amount not to exceed $2 million dollars to be used during fiscal year 1980...

comments:

We feel this is commendable. One of the effects of direct uniform funding is to put all local school operation money into one 'pot': the money cannot be divided until data is in from all schools; error(s) in the data from one school or Agency could affect all other schools. One of the benefits of such a Set-Aside Fund would be to cushion local Boards from other school's or Agencies' errors. Local boards can not manage a budget effectively if the amount of that budget fluctuates erratically.

Our only concern is that naming 1980 could limit this fund to that year; to set aside such a fund for FY '81 would require a revision of regulations.

alternative:

Subject to the availability of appropriations there shall be set aside each year an amount not to exceed $2 million dollars to be used during the fiscal year ~~1980~~ by the Director... . . . Balances in this set-aside fund shall be apportioned through the formula during the first week in ~~April~~ July by the Director. ~~or at such earlier time as he deems significant ADM reporting fluctuations have ceased.~~

§31h.79 Prohibition

citation:

The formula implementation set-aside fund shall not be used as a discretionary fund by the Director for any purpose, and it shall be allocated solely through the Indian School Equalization Formula.

comment:

It may sound strange from a contract school but this seems to unduely strict the Director from meeting real needs of Indian students. This money should be used to minimize fluctuations in all school's budgets occasioned by the discovery of errors in data, or calculations, new schools, etc.

Without some discretionary money, somewhere, we can end up with situations where schools may be suspended through no one's fault. Legally, neither the Board nor the supervisor or the Agency school Sup't. or the Director is legally to blame for not forseeing the unforseeable. But 'the system' is guilty as hell if it allows situations where no one can do anything legally to help.

The world is not completely forseeable. There's got to be some reserve capacity in case of small but acute local problems. In our urge to eliminate all inequities in funding by allocating all funds by formula, we may paralyze ourselves, making it impossible to resolve or alleviate inequities in care of schooling

It should be possible to write language that constrains the Director to use this money for only certain types of situations not as acute as a natural disaster but which still threaten suspension of minimal education or care operations. Such uses could be made public.

There's got to be a little 'give' and a little trust; we're talking of a reserve of less than one half of one percent.

alternative:

NONE OFFERED HERE

§31h.100 Definitions

citation:

As used in this subpart, the term:

(a) "Loaded bus miles" means the daily average of the sum for all bus routes of the mileage logged between the school site and the residence of the farthest student on the bus route.

(b) "Farthest student" means the last student discharged on the bus route for trips from school to the student's residence and the first student picked up on the bus route for trips from the student's residence to school.

comments:

The term "loaded bus mile" is an attempt to impose 'high cost-benefit' school bus-routes on schools. It favors: a) schools which run circular bus routes, reversing the route in the afternoon or which hire only bus-drivers who live at the end of linear bus-routes and leaving the busses with the drivers overnight and b) schools that run the same sorts of kindergarten bus routes or keep kindergarten students at the school as long as the older students.

Geography simply does not always allow circular bus routes. This school, for example, lies in the canyon of a major intermittant stream un-bridged for 15 miles in either direction; the canyon is traversed by a single all-weather road. While many schools do not lie in canyons, many probably do lie along a single all-weather road.

If the purpose of Subpart H is to "provide funds to each school for the round trip transportation of students between home and the school site", (§31h.101) it should do so. It should NOT encourage supervisors and Boards to board potential day students (either by paying too little for transportation or (relatively) too much for residential costs.

An important matter, which the current formula fails to address, is the mileage entailed in taking students to and from doctors. This is a c. 350 pupil school. The nearest 7-day PHS clinic is 50 miles away; the nearest PHS hospital is c. 80 miles away; the nearest PHS hospital with resident or visiting specialists is 125 miles away. I would estimate that we make anywhere from 1-4 trips a week; few of these can be combined because they involve different specialists and/or different locations. Some provision for this must be built into subsequent formulae; some allowance for this should be made in this year's formula. Short-changing day-school operations by basing transportation costs on "loaded student miles" is not a very good way to begin.

alternative:

As used in this subpart, the term:

~~(a) "loaded student~~ basic transportation miles means the daily average of the sum for all bus routes of the mileage logged ~~between the school site and the residence of the farthest student on the bus route~~ in transporting the students of that school to and from their homes on a daily basis.

~~(b) "farthest student" means the last student discharged on the bus route for trips from school to the student's residence and the first student picked up on the bus route for trips from the student's residence to school.~~

§31h.102 Allocation of transportation costs

citation:

Transportation funds shall be allocated to each school as follows:

(a) Day students

Funds shall be allocated to each school which provides daily transportation of students between the student's residence and the school site by the following formula:

(1) 180 x ($1.30 per loaded bus mile + $.81 per transportable student) Transportable students shall be the average number of students transported during the October and November count periods who reside at least 1 mile from the school site.

(2) The allocation shall be based on the daily average of transportable students and loaded bus miles computed during the October and November count periods.

(3) This formula shall not apply to any dormitory which provides daily transportation between the dormitory and the public school which the dormitory student attends.

comments:

The term "loaded bus mile" should be replaced throughout with "basic transportation mile"; see comments on .100.

alternative:

Transportation funds shall be allocated to each school as follows:

(a) Day students

Funds shall be allocated to each school which provides daily transportation of students between the student's residence and the school site by the following formula:

(1) 180 x ($1.30 per ~~loaded bus~~ basic transportation mile + $.81 per transportable student) Transportable students shall be the average number of students transported during the October and November count periods who reside at least 1 mile from the school site.

(2) The allocation shall be based on the daily average of transportable students and ~~loaded bus~~ basic transportation miles computed during the October and November count periods.

(3) This formula shall not apply to any dormitory which provides daily transportation between the dormitory and the public school which the dormitory student attends.

§31h.102 Allocation of transportation funds

citation:

(b) Boarding school and dormitory students

comments:

I was shocked, at the Denver meeting, at the apparent inequity in the way transportation costs are to be calculated.

The purpose of this subpart of the formula is "to provide funds... for round trip transportation of students between home and the school site" (§31h.101). It is my understanding that maps, mileages, and names of students on bus routes will be part of the ADM counts, that these will be auditable (§31h. 39) and that those who provide "fraudulent" or "willfully inaccurate" counts may lead to "dismissal" or "penalization" (§31h.40). The bases for determining the amount of transportation funds available to boarding schools and dormitories is the number of times students living given distances might be taken home each schoolyear. Yet there appears to be no requirement apparent that administrators of boarding schools or dormitories document that the funds received for transportation are indeed used "to provide...for round trip transportation of students between home and the school site." There's something wrong-headed with the policy implicit in the two transportation formulae: day schools must carefully document their transportation program in order to receive (part of) the funds needed to transport students to and from home while boarding schools and dormitories may choose to use their transportation allocation for athletics, shopping, "educational" field trips, and going to Disneyland.

Given the shortage of money in the BIA and the shortage of gas in the nation, it's high time we took a damned hard look at school transportation costs. The final formula should be one which encourages day students, getting boarders home (and back if necessary), health-related travel, contacts with parents, etc. and discourages intermural (between-school) elementary school athletics, shopping for pleasure, field trips which are not damned well planned for educational purposes, and just travel for the sake of travel.

alternative:

The first year (FY '80), ~~Funds~~ funds shall be allocated to each boarding school and dormitory for the transportation of students at the school according to the following criteria:

...

In all subsequent years, funds shall be allocated on the basis of the school's transportation [illegible] of the previous year. Administrators of boarding schools and dormitories will keep detailed logs of miles travelled in school-owned or -leased vehicles to take boarding students to and, if necessary, from their homes. These shall be summarized in such a way as to show the number of trips of given lengths times the rates given in (1) -(5) above. Administrators shall be subject to the penalties noted in @31h.40 for "fraudulent" or "willfully inaccurate" data.

impact data: Rock Point

data	total bus route (one-way)	loaded student miles (one-way)	number of students*
north route	22	12	56
south route	26	14	39
3rd (north)	8.5	5	14
3rd (south)	8	5	10
am Kg (NW)	35	26	6
am Kg (NE)	16	12	5
pm Kg (S)	38	29	3
pm Kg (S)	34	15	6
	187.5	118	139

calculations:

Using the formula given, we would calculate:

180 (school days)
X[(1.30 per "loaded bus mile"
X 236) ("loaded bus miles")
+ (.81 per "transportable stude
X 139)] "transportable students:

180 X [(1.30 x 236) + (.81 x 139)] =
180 X [306.8 + 112.59] =
180 X 419.39 = 75,490.20

Rock Point is a school in which c. 2/3rds of the 350 students are day students. There are no intermural athletics for the elementary students and limited intermural athletics for the secondary students. Field trips are largely limited to well-planned multi-day trip for students in grades 5-9.

Transportation costs (basically salaries, benefits, and GSA bus lease) have run:

FY '78	76,546.
FY '79	82,500. (est)
FY '80	93,644. (proj.)

Roughly half of the transportation costs are for salaries without benefits: 38m/80m in the FY '78 proposal. Rock Point has four drivers. Because this is a contract school, drivers' salaries are pegged to the GS-schedule:

DYJ	4/10	11.6m	
JJ	4/4	9.8m	
AB	4/6	10.4m	
RS	4/2	9.2m	
		41.0m	(before quarters are withheld)

In a Bureau School, however, these drivers would (still) be drawing salaries 'pegged' to the WG-schedule. (And Title XI, unfortunately, requires Bureau schools to pay post-Title XI employees "at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications and holding comparable positions" (§1131(h)(1)). If this is taken to apply to the above positions, these people would (still) be WG 7's:

DYJ	7/5	20+yrs (as of July '78)	16.4m
JJ	7/4	5yrs	15.8m
AB	7/4	4yrs	15.8m
RS	7/1	0yrs	14.1m
			62.1m (=$62,000.+)

IF THIS WERE A BUREAU SCHOOL, AND OUR INFORMATION IS CORRECT, THE AMOUNT ALLOCATED BY THE FORMULA (47.9m) MIGHT ALLOW THREE DRIVER's SALARIES, NO BENEFITS, AND NO BUSSES. I.E., THE CURRENT FORMULA WILL MAKE IT VERY DIFFICULT OR IMPOSSIBLE FOR BUREAU SCHOOLS TO TRANSPORT ANY KINDERGARTEN STUDENTS IN MORE SPARSELY-POPULATED RURAL AREAS.

Statement Submitted by Norman Ration, Ramah Navajo School Board, Inc., Pine Hill, N. Mex.

RAMAH NAVAJO SCHOOL BOARD, INC. - WRITTEN COMMENTS ON P.L. 95-561

It is the desire of the Ramah Navajo School Board, that all considerations relating to 95-561 be made to better serve the policy of PL 93-638, the Indian Self Determination and Education Assistance Act. The positions represented by the Coalition of Indian Controlled School Boards is suitable to the individual and unique needs of our community and school. It is our sincerest hope that the final implementation of this law, reflects the concerns and interests of contract schools and the intent of PL 93-638.

Several issues are of grave concern to contract schools, and represent views held by the Ramah Navajos. The question of direct funding based on equitable distribution formula is supported, with the recommendation that direct funding be dealt with as a separate component, distinct from the formula itself. We want to not just shift to a different funding method, but to reform the way in which schools are funded.

The Coalition has called for direct Central Office responsibility over the education contracting process. We renew this position now. A mechanism must exist that allows Indian Tribes and organizations to deal directly with decision-makers in the Central Office. This will encourage areas such as technical assistance, and funding, based on the needs identified and presented through the formula.

The formula as proposed has serious deficiencies. It links the funding of Indian education to State funding levels, a linkage which does not correspond to real Indian needs. A thorough study is recommended to determine quality standards for Indian educational programs, and then, use these standards as the base Indian education formula. Meanwhile, an approximation of base need be made, using the national per pupil average corrected by cost of living factors and rural isolation.

The 80% allotment using the previous years enrollment would produce an inequitable situation for our school whose annual enrollments are rising, especially in the lower levels. This would seriously handicap budget planning, and utilization. Contract schools should receive 100% of their need based on objective criterias. Furthermore, a central office contingency fund should be created to add to contracts for schools with higher enrollments than projected, as measured on the last school day in October. Additionally, special factors should be incremented into the basic formula and weighted in equitable ways.

The priority of funding in the proposed regulations discriminates against contract schools in general and against younger contract schools in particular, thus creating dis-incentive to contract for school operations.

The 15% planned for plant operation and maintenance is very low, and should be increased to 25% and allow for special conditions requiring higher amounts.

The impact of the funding formula on Ramah is a tragic reduction of funding within two years, to a level equal to 20-30% of this years budget. With the expansion and leadership that our school demonstrates, the impact is quite obvious. There must be a reduction of school programs by at least one-half of the current level: which would be in conflict with the PL 93-638 activities.

In our case, contracting under the spririt of 93-638 has led to the control of non-instructional components, that are supportive of the educational intent. In this situation, there must be allowances for additional funding for the administrative costs incurred by this contracting.

The transportation fund allocation is assuming a dormitory and school sitting in close proximity to each other, and hence eliminating the need for transportation services to and from the dormitory. In our situation, the dormitory is 26 miles from the school site, and transportation must be provided for those students 180 days a year, in addition to the separate busing to and from home. It is reasonable that this additional transporting of students, be computed into the allocation at the same rate as provided for the day students transportation.

We are the only school in the BIA system of funding that has a dormitory and a Boarding School. In all the BIA controlled situations the institution are either a) Boarding or b) Dorm, that is,

a) Boarding in that the students use the same kitchen, maintenance, and counseling staffs as the institution for learning.

b) Dorm in that the students are in another institution for learning. Ramah Navajo School Board, Inc., has a separate staff for kitchen, maintenance and counseling for school and Dorm. Thus our students (101) are in Dorm (RNSB) and come to RNSB, Inc. school (Board) - a distance of 26 miles between Dorm and School. Additionally, 385 students are bused from their homes. RNSB, Inc, early childhood program is not included in the present formula for funding. This unique and innovative program cannot be arbitrarily discontinued.

The problem of negotiations based on formula funding and 30% allocations will be experience in the near future when we negotiate with area office. How can a total contract receive partial allocation via a Letter of Credit in Treasury Department?

No one thus far has been able to verify the relationship between P.B.P Zero Base Budgeting and formula funding for those line items other than the "Previously Private School Line Item". We trust that the advise "forget the rest of the line items" is not true.

The Ramah Navajo School Board began with Bilingual Bicultural educators in 1971 and has refunded the program to a productive reality. The formula only addressed the kindergarten to three years which only give a beginning and not an equal opportunity the schools who are committed to the Bilingual process have found that it is a continuing experience but absolute necessary part of the Native American educational experience. The formula in no way addresses the total need of all age bilingual students and their program with its proven importance must be included if self-determination is a reality and not a word game. Each grade level should receive consideration so that a complete program can be experienced and achieved.

Finally, the allowances of only $5,000 for school board development will not begin to approach the degree of training and education necessary for the majority of schools to successfully conduct the business of education. It should be apparent that a greater investment be made in the development of local boards.

As the model program in Indian Self-Determination and effective education of the youth of our community, it is our intent to continue to provide responsible and quality education to our children. It is contradictory that this law was enacted so quickly, and without apparent concern for the progress being made by contract schools. It is further unfortunate that these bearings and proceedings have taken place so late in the stages of consideration, and the impact that these statements will have to be minimal. Self-Determination must be insured throughout the entire proceedings, and any action to limit its intent and spirit must be actively opposed.

True and full Self-Determination should be encouraged. A certain committment to direct funding and Central Office responsibility is essential to the survival of contract schools in face of this law. Self-Determination is the catalyst that sparks accomplishment for our Indian people. It must be preserved and enhanced by future congressional acts.

17 comments concerning the Director making adjustments, indicate that his actions should be public and with concurrance.

18 the phase in percentages (20%) does not allow for schools which experience population increases, and should be adjusted for that.

21 the directors "weight review" needs a defined system for review, be specific in wording.

22 the inclusion of supplementary funds is opposed, as it is included in the formula for the subsequent year. It is not a Bureau function, but a congressional one. i.e., JOM and IVA.

32 ADM is proposed as one day in the month, and should be a commulative caculation instead.

34 substitute weeks for the ADM count should be allowed and the three previous weeks could be used.

51 the quarterly revision of the funding is contrary to the contracting approach under 638. Once funds are committed, subsequent committments are made by the school. They should be certain of the next monies. An initial contract amount be set in Spring and revised based on the October count.

52/3 the issuance of funds to contract schools be carried out through the agency superintendent, as written, is contract to direct funding, and inappropriate to the 638 system. Should apply only to Bureau schools.

53 Directors adjustments clause again

53 obtaining only 30% of the first year allotment based on FDM should be increased to avoid case flow problems.

55 local fiscal agent, should be defined by the local school board.

62 local administration system is too set, and locks in through earmarking, the use of funds.

102 Transportation - "loaded bus" approach versus the trip to the first house concept. That buses run empty to some houses and are denied significant monies for this. Recommend actual mileage approach.

Also proposed that boarding systems log actual mileage instead of 'freely' adding up mileages to and from house.

Questions raised - authority to use government property under this act?

The issue of Civil Service Employee phase out over five years as optional, or mandatory?

Student rights and responsibilities - seem heavy on rights and light on responsibilities, and may become legally responsible to provide for all rights noted in the act. Impossible.

[Additional material retained in subcommittee files:]

Mr. KILDEE. The next panel will consist of Mr. J. C. Sollars, Wyoming Indian High School, Ephete, Wyo., chairman of the Duckwater Shoshone Tribe, Jerry Millett, and Mr. Michael Deasy, Duckwater Shoshone School, Duckwater, Nev., and Bob Nelson, director of the Duckwater Schools. If you want to proceed in whatever sequence that you have determined among yourselves, that will be fine.

PANEL: J. C. SOLLARS, WYOMING INDIAN HIGH SCHOOL, EPHETE, WYO.; JERRY MILLETT, CHAIRMAN, DUCKWATER SHOSHONE TRIBE; MICHAEL DEASY, DUCKWATER SHOSHONE SCHOOL, DUCKWATER, NEV.; AND BOB NELSON, DIRECTOR, DUCKWATER SCHOOLS

STATEMENT OF J. C. SOLLARS, WYOMING INDIAN HIGH SCHOOL, EPHETE, WYO.

Mr. SOLLARS. Mr. Chairman, first of all, I would like to express my appreciation to the committee and members for allowing me to present the views of the Wyoming Indian High School and the educational board. I come this morning with a little different background than perhaps some of the others. I do share many of the same concerns that have been expressed to you before.

In addition to my work with the Wyoming Indian High School, I am chairman of the Fremont County District Public School Board, which gives me an opportunity to compare the cost and the formula breakdown of the education as provided on the reservation to the education that might be provided to public school systems.

The initial statement in the Public Law 95-561 indicates that the purpose of this amendment is to improve education, and Indian education per se. It says that the goal of this law shall be to provide equal education as compared to that provided by the local education agency or adjacent school district. We have talked about the formula funding, and I certainly have some concerns as to how it is broken down, but perhaps the fact we only have so much money and each person is talking about rearranging it, perhaps we are talking about the appropriations, and I think maybe this is the crux of the problem we have to face.

Our school operates a 9 through 12 program which is unique among the testimony that you have received. We have long known that it costs more money to educate a secondary school than it might an elementary school. The State of Wyoming in their funding foundation for public education have had many, many years of a type of funding formula in which they allowed a weighted value of one for elementary schools as compared to 1.5 for secondary schools.

Converting this to our formula, then the $1,800 would equal 1, and $2,350 would be the 1.3.

Comparing this to the amount of money available to the adjacent elementary schools and public schools of our size, of which we participate in athletic conferences, and so forth, we find that the elementary schools on the Wind River Indian Reservation have an average expenditure per school district of $3,133, and this is going to compare to our formula allocation of $2,350. The class B schools of which some of Wyoming poorer schools in Dubois and Basin, for example, are involved, have an average daily membership expenditure of $3,142. For us to conduct the intent of the law we are starting $800 in the hole, the difference between the average classroom expenditure for your public schools as compared to that that is being allowed to the Wyoming Indian High School under the funding formula.

The quality of education does not necessarily have to relate directly to money. We are talking about management, curriculum, and other things offered. However, it becomes the starting point, and for us to comply with the intent of the law to provide equal and compatible education with the non-Indian school, then we are starting at a decided disadvantage.

The amount of money in the 1.3 formula we think should be adjusted and particularly adjusted for contract schools that do not operate a boarding school or an elementary school in conjunction with it. We do not have the opportunity to disseminate the staff cost, transportation cost, and supporting cost over a large number of students and grades, but instead you are concentrated with your expenditures being in the secondary level which is, as I have said before, decidedly more expensive.

We have difficulty or concern over the maintenance and the transportation costs. We said we do not operate a boarding school, so our students are transported. Being a rural community we are talking about approximately 90 percent of our students being transported on a daily basis. The loaded mile factor, or whatever weighted formula is being used in finalizing transportation costs has to consider the length of bus routes, age of equipment, and the one area that seems to be left out becomes the activity section that is so imperative to the total curriculum in high school classes. Comparing it to the public school, we feel this is an area that has been left out of consideration.

We would like to compliment the task force on their work. We think they have done a good job on the time frame, but we feel there are many, many factors that possibly have not been considered and thoroughly and particularly weighed, and we wonder how much input—because we are one of a kind—we have had into the information from the task force in carrying this information back to you.

We are also concerned as far as maintenance cost, a weighted factor being applied to all buildings in all areas, because of the type of building you are discussing, the area which is being served, the climatic conditions, the age of the building, insulation, and many other factors.

I have presented for the committee a written documentation of the funding bases that we are talking about. I would present these as additional viewpoints that I might have for the committee's consideration. Again, we feel that the weighted formula needs to have some revision pertaining to a 9 through 12 program and comparison to a K through 12 program. We also feel, as previously offered in some other testimony, that we have a tendency to feel perhaps the funding formula is most beneficial to the larger school in which the big gets bigger and not particularly advantageous to the smaller schools.

Thank you.

Mr. **Kildee**. Thank you. And the rest of your testimony will be made a part of the record.

[The prepared testimony of Mr. Sollars follows:]

Testimony Presented by J. C. Sollars, Director of Instruction, on Behalf of the Wind River Indian Education Association, Operators of the Wyoming Indian High School

FORMULA FUNDING HEARING

Public Law 95-561, as now currently drafted becomes the major piece of legislation since the original funding of Indian Education. The importance of this legislation can only be related to the committee as it affects the Wyoming Indian High School, a contract school operating a 9 through 12 program on the Wind River Indian Reservation in Wyoming.

The task force are to be complimented on their performance in attempting to develop a system which could be applied to all schools and this action had to be taken without the benefit of an adequate time frame, therefore, many factors remain unresolved or items which may have not been fully considered or weighted.

The State of Wyoming have long realized the additional costs required to provide a complete and adequate education for high school children as compared to elementary educational costs. The task force has also taken this matter into consideration, however, we are of the opinion that not enough weight in the formula was awarded to schools only 9 through 12 program. This philosophy has been documented by the Wyoming State Legislator over a period of years, in which the tax base for Wyoming Public School revenue was established to allow districts operating only an elementary school tax base of 10 mils and a high school district a tax base of 15 mils. Applying this tax structure to the formula funding procedure the weighted factor for schools operating only a 9 through 12 or high schools only would, therefore, have been computed at 1.5 factor as compared to the existing 1.3 factor. Schools operating only a 9-12 program do not have the opportunity to realize the benefits of spreading their costs throughout the entire system in staff, food services, transportation, buildings and facilities, support services, administration, activities, community involvement as might a K-12 system or a school with the benefit of a boarding component.

Applying this factor to our formula, an additional 0.2 weighted factor would provide an additional 55,260 as we have ADM total of 118. Perhaps this amount of money does not seem like a major factor in regard to the total appropriation, however, it becomes a monumental concern to the operation of our school as the formula, as now computed, would reduce the amount of funds available to our school for fiscal year 1979 $427,560 to an entitlement of $282,420 or 34 percent of our 1979 fiscal year monies. Our allotment has been determined at 342,048 or in excess of 20 percent reduction, with the addition of the inflation factor common to all schools, our budget is placed in extreme stress.

The State of Wyoming has increased their assistance to public schools from 18,000 to 27,200 during the past legislative session. While this increase has been recognized by the State Department of Education in Wyoming, the Wyoming Indian High School has had its funding decreased in excess of 20 percent. The reduction of funds will have a direct bearing on the course and quality of education being offered through the Wyoming Indian High School.

Our school is further confronted with a severe planning problem as we have not as yet received any allocation for building maintenance or transportation. We are willing to accept a factor based on square footage as being a relative fair method, however, this factor alone does not consider the age of the buildings, required energy for heating, type of construction, type of heating, climate, or classes which must be offered within the various buildings.

Transportation causes the Wyoming Indian High School a greater amount of concern. This concern is the result of several factors which must be a part of the loaded mile factor. These factors must include the size and age of the vehicle, the condition of the roads traveled, the length of the bus routes, replacement costs and of course comparable cost of adjoining public schools.

No provisions were made in the funding except for conventional school transportation. We are of the opinion some provisions must be considered for activities which become such a major part of the high school curriculum. This has to be a major factor in the case of the Wyoming Indian High School were 90 percent of all students are bused as required by a rural community.

The intent of Public Law 95-561 was to insure Indian children would receive a comparable and quality education. With our extreme reduction in allocated funds, it becomes impossible for the Wyoming Indian High School to meet the intent of the law. Our salary schedule is the lowest in Fremont County and this fact alone restricts our recruitment of teachers. The same basis is true for our school administrators and support staff. More critical, however is the budget restriction which limits our staff in number and, therefore, limits our course offerings in our curriculum to the point NCA accreditation is in jeopardy. The amount of increase afforded our staff was below the guidelines established by the administration, however, with the restriction of funds we will not be financially able to continue with the same number of staff positions as in fiscal year 1979. This reduction will have a direct effect on the curriculum and our North Central Association Accreditation. With a reduction in staff, a limitation of our curriculum, can we say we are offering a comparable and quality education to the Indian children of the Wind River Reservation?

The formula funding is having a direct effect on the quality of education being offered as verified by the higher per pupil cost expenditure now being allowed to the adjoining public elementary reservation schools of Ft. Washakie, Mill Creek and Arapahoe. District No. 21 (Ft. Washakie) has a per pupil expenditure cost of $3,541 and District No. 14 (Mill Creek) has a per pupil expenditure cost of $2,872 and District No. 38 (Arapahoe) has an expenditure of $3,142. The average cost per ADM for our elementary feeder schools is $3,185 per ADM. The average for our Big Horn Basin Class "B" Schools of Shoshoni, Wind River, Dubois, Meeteetse, and Basin is $3,133 per ADM. Two of these districts are listed among Wyoming's poorest financial districts. We have illustrated the states philosophy of projected course comparison between High School and Elementary Education. Our school must remain competitive in the area of education and we find this extremely difficult when our per pupil cost for fiscal year 1980 can only be 2,350 or 835 dollars per student below our adjoining elementary districts.

Formula funding, as it now exists, restricts high schools such as the Wyoming Indian High School from planning any future growth or developing areas of improvement. Our existing funding level is forcing educational regression upon our school and its students. Public Law 56-561 was intended to improve education for the Indian student and the funding limitations have reversed this intent without the consideration of inflation.

It is the intent of the Wyoming Indian High School to do everything possible to carry out the intent of the law, however, for a school just achieving recognition among its peers and community cannot continue to improve without adequate funding.

In summary we would request a re-evaluation of the 1.3 weighted factor used in the formula funding procedure for BIA contract schools where High School students only are considered. For schools of this composition to become or remain competitive in the quality of education as offered to the non-Indian student, additional funds must be made available.

Wyoming Indian High School,
Ethete, Wyo., June 25, 1979.

Congressman Kildee,
Congressional Building,
Washington, D.C.

Dear Congressman Kildee: I would be remiss if I did express may appreciation to you and Mr. Lovesee in regard to your sincere interest expressed throughout the Oversite Hearings last Friday. I want to compliment each of you in your conducting of the entire hearings. Your patience and understanding made the entire proceedings worthwhile.

During the hearings it was indicated the record would remain open for a short period of time to allow further testimony to be submitted. I am fully aware the committee in which we were in contact with during the hearings was not the Appropriations Committee. A basic concern throughout the hearings was the self serving position of inadequate funding at most levels which resulted in "in fighting" within the programs as schools are finding it most difficult to live within last years budget as directed by the appropriation. When a school was computed to receive a cut it then approaches the impossible to continue the educational level without reductions in one or more areas.

During the testimony (written) we submitted figures from our local neighbors in regard to the average cost per ADM in these schools. This information was supplied by the Wyoming State Department of Education for the fiscal year ending June 30, 1978 and according to each schools budget as submitted. In our testimony we submitted these figures as compared to our 79-80 budget which places us one additional year behind in the inflation race.

Section 1128 Part (3) indicated: "the cost of providing academic services which are at least equivalent to those provided by the Public Schools in the state in which the school is located." Based on the intent of the law, the Formula Funding becomes self defeating when our allocation of funds is $788.00 below the average ADM expenditure of other schools in our conference (based on size, location of the schools which are all in our state.) According to the state report, the schools in our conference is comparable to the rest of the state in regard to per ADM costs.

Without the benefit of a finalized figure for transportation and maintenance our school is having a most difficult time in attempting to plan for our next operational year. This planning becomes imperative as we now have less than sixty days until the first facets of our new school year will be underway.

In summary we feel the appropriations for the operation of contract schools is inadequate for our school to provide academic services to our students which are at least equivalent to those provided by the Public Schools in our state. The allotment formula stating "minimum annual amount of funds" had reduced itself from legislation jargon to a stark reality of contract school finance. We must also have the information in regard to the transportation and maintenance formula to complete our operational budget. A maintenance award becomes imperative for contract schools as compared to BIA schools where additional funds are available. Only at this point can we complete our staff and complete our pre-school preparations.

I wish to thank you and the Oversite Committee for allowing me to present the views of the Wyoming Indian High School as part of the official record in regard to PL 95-561. Again, I wish to extend my appreciation for your attitudes toward the hearings and the witness appearing during the hearings.

Respectfully,

J. C. SOLLARS,
Director of Instruction.

STATEMENT OF JERRY MILLETT, CHAIRMAN, DUCKWATER SHOSHONE SCHOOL, DUCKWATER, NEV.

Mr. MILLETT. Thank you, Mr. Chairman. I am Jerry Millett, chairman of the tribe in Duckwater. With me are Bob Nelson, project director of the school and Mike Deasy—the contracting and grant management for the school.

The chairman of our school board was unable to be here with us, and I believe Mr. Deasy gave a letter to Mr. Lovesee from the chairman of our school.

We are here to talk about the proposed formula funding. As it is presently drafted, the formula will close the school in Duckwater. I would like to talk a little about the success of that school. The school is a locally controlled school. It is a focal point of the community. The parents of the schoolchildren are—they participate in many activities that are going on around the reservation there in Duckwater.

The school has shown its success in the years since it has been in existence.

Since 1975, through last year, the average growth rate per year, per student, has been over 1 year, each year. An example in reading, the average in 3 years has been a 1.76 growth rate in 1977, and in 1978 it has shown a growth rate of 1.67.

I think the community of Duckwater is an example of community education. The students that attend our school have shown to us, the parents of the school, that they want to go to school. I think because of that, that is an example that shows their growth rate per year in our school.

Also showing that is the absentee rate is less than 5 percent in the past 4½ years.

I think now, Mr. Chairman, I would like to ask Mr. Nelson to speak.

[The prepared statement of Mr. Millett follows:]

Statement of the
Duckwater Shoshone Tribe
Jerry Millett, Chairman
and the
Duckwater Shoshone School Board
Douglas George, Chairman
prepared for the
Subcommittee on Elementary, Secondary and
Vocational Education
U.S. House of Representatives
Honorable Dale Kildee, Chairman
June 15, 1979

The Duckwater Shoshone Tribe is located in east-central Nevada. It is a rural, isolated, agrarian community. The on reservation membership of the Tribe is approximately 120.

In 1973, in response to a community defined need, the Duckwater Tribe established the Duckwater Shoshone Elementary School. The school provides educational services to the Duckwater children from pre-school through grade 8. The K-8 student population has averaged 22 to 23 in every year of operation. The main emphasis of the school has been to develop survival skills in the areas of reading, math and language arts. For the past four years, the instructional program has resulted in mean student gains in grade levels in these basic skill areas which have far exceeded national norms. (Based upon analysis of pre and post California Achievement Tests.) However, the importance of the Duckwater Shoshone Elementary School is far beyond these academic achievements. In every sense, the Duckwater Shoshone Elementary School is a community school. The school is the focal point of the community.

We have reviewed P.L. 95-561 as it pertains to Indian education. We are in agreement with the intent of this important piece of legislation. We have reviewed the proposed regulations published by the Bureau of Indian Affairs on May 22, 1979 to implement P.L. 95-561. We are more than distressed by the results of our review of the regulations. If the proposed regulations implementing sections 1128 and 1129 are adopted as presently drafted, the Duckwater Shoshone Elementary School will close. We do not believe the intent of the legislation is to force the closing of any school under the jurisdiction of the B.I.A., let alone close a small community based, tribally operated and controlled school.

Under the proposed formula, according to data generated by the B.I.A., the Duckwater Shoshone Elementary School would be allotted $43,236. This sum is insufficient to operate the school and does not come close to being adequate enough to maintain the integrity of the school.

The proposed regulations appear to make an assumption that all classes of schools have the same needs and problems. We maintain this assumption is false. We suggest it is necessary to make distinctions of the classes of schools under the jurisdiction of the B.I.A. before developing a distribution formula. Areas for distinction exist in Bureau operated schools; former Bureau schools operated under a contract; dormitory schools, both Bureau operated and contract; and, contract schools developed in response to a community need. Another fundamental distinction can be made pertaining to all small schools under the Bureau's jurisdiction. We think distinctions of this nature must be made in order to devise an adequate funding mechanism. Once the distinctions are made we think a formula can be developed which is needs based and considers the actual and reasonable costs of school operation. The distinctions will allow the designers of the formula to define the type and scope of services offered, the need for those services and the reasonable cost of those services. As a result of our analysis, we propose a formula which encompasses a class of small, community based schools and sets a reasonable minimum operating figure for that class and then distributes the remaining funds in an equitable manner.

We understand the proposed formula is an interim measure. We further understand the purpose is to design a formula for the equitable distribution of current resources. We are apprehensive that the current interim formula will become the basis or starting point for a future permanent funding mechanism. This fear is a result of our previous experience with the bureaucracy and the testimony of the formula task force before this committee. Mr. Mack has stated the formula, as it now stands needs "simply a revision" and that it will only need "fine tuning once we find out how it works in operation." This attitude leads us to believe the interim formula, which is not needs based, will be the basis of an ostensibly needs based formula. We maintain the interim formula is totally inadequate and demands wholesale revision prior to being implemented.

Duckwater also takes exception to the eligibility criteria of the school construction provisions of the proposed regulations. This section is another blatant penalization of small schools. In order to be eligible for construction assistance, an elementary school must have an enrollment of 25 or more. Duckwater has suffered under this small school penalty for several years. The Duckwater facility is an old church which does not meet contemporary health, safety and education standards. If this provision is allowed to stand, Duckwater will be precluded from bringing the school into line with contemporary standards.

Before discussing some of our concerns with and objections to the proposed regulations, it is crucial to understand the critical nature of the distinctions between the classes of schools which, we suggest, exist. We maintain that the regulations as presently drafted address only one class, that being B.I.A. operated schools, and, therefore, are predicated upon assumptions and needs which are dissimilar to those according to which small, isolated, community controlled contract schools, such as Duckwater, are organized and operated. To not recognize and, therefore, legitimate the fundamental distinctions inherent in the concept of community control is to deny the legitimacy of that concept and function to destroy the integrity, and hence, the viability of community controlled schools.

The Duckwater Shoshone Elementary School is a true community school. It was established in response to a community need which was determined by the grass roots population. The Duckwater community is integrally involved in not only the formulation of policy decisions, but also the daily operation of the school. In the Duckwater school, community involvement is an ongoing process for identifying and addressing school and community problems and needs which facilitates a synergistic response to those concerns. Issues are considered within the context of the community, uninhibited by self-protective power allocations and involving collective solutions of common problems which are collaborative, voluntary and flexible.

But the present situation is not an appropriate forum for a detailed discussion of the philosophy of community education or the concept of the community school. Fortunately, this committee has readily available to it intimate knowledge and support of community education in the personage of Mr. Kildee. It was as a direct result of Mr. Kildee's informed and persistent efforts that the philosophy of community control was further "legitimated" with the enactment of the Community Education Act of 1978. Of significance for the present purpose, however, is the recognition of the implications for program design, organization and management which are implicit in the philosophy of community control and which underly the fundamental conflicts which exist between schools organized according to the dictates of community control (e.g., Duckwater) and those organized according to bureaucratic principles (e.g., B.I.A. schools).

In general, schools which are organized according to bureaucratic principles facilitate decision making by elites rather than by the grass roots population. A bureaucracy operates according to a hierarchical authority or decision making structure as opposed to the consensus model inherent in community control. In a bureaucratic setting, school operation is approached in a componential manner; that is, the operation of the school is segmented into a variety of different programs, each regarded as discrete (e.g., Title I and Special Education programs), whereas in the community school such segmentation is controlled by a decision making structure which involves the evaluation or assessment of all program features within the context of the immediate community. In a school system operated according to bureaucratic principles, especially in a large bureaucracy, decisions are made according to written rules and procedures and are predicated upon knowledge derived from experts or specialists. In a community school which is organized according to consensual norms, decision making focuses on generating solutions which flow from an interaction context.

This is not to suggest, however, that we oppose issues of accountability. On the contrary, for the past five years we have been actively involved in developing methodologies to increase accountability. One result of this effort has been the development of policy manuals, copies of which have been provided to this committee. The critical distinction to be made is that methodologies must be structured according to the dictates of community control rather than bureaucratic principles.

It is our position that recognizing the fundamental distinctions between schools organized according to the philosophy of community control and schools organized according to bureaucratic principles, the present regulations function to destroy the integrity and, hence, the viability of community controlled, contract schools. Furthermore, we believe that the regulations as presently drafted function to contradict the policies delineated in Part 31a.4, specifically the federal policy of encouraging and defending "the right of the tribes . . .

to govern their own internal affairs in all matters relating to education."

Factors which are generic to small, isolated, community controlled schools such as Duckwater and which are crucial to the maintenance of the integrity of the school include:

1. Recognition of the requirements implicit in the adversarial relationship involved in arms length negotiation. Contract schools must have the resources to maintain the integrity of their position in the contract negotiation process. The B.I.A., for example, has within the bureaucracy a variety of readily available resources at hand to support its position (e.g., contract and procurement specialists, a "638 committee," and legal services--in essence, the entire bureaucracy).

2. Recognition of the requirements inherent in the general administration of the school program. Contract schools must have resources available to provide for accounting services and legal counsel.

3. Recognition of the costs involved in responding to externally imposed requirements. The present situation provides an excellent example of this. We are required, if we are to maintain our integrity, to identify regulations which might effect us, analyze those regulations, and find a way to respond to them. If we find through our research that such regulations would adversely effect the operation of the school, we must also develop alternatives and attempt to negotiate their inclusion.

4. Recognition of the need to be able to provide for expertise of our own choosing. For example, under the Act the B.I.A. is directed to develop and establish basic educational standards. Contract schools may either adopt the B.I.A. standards or can generate their own. However, without the necessary resources to develop appropriate, responsive standards, a contract school is left with no alternative but to accept B.I.A. standards.

5. Recognition of the developmental needs of contract schools. From its beginning, the Duckwater school has continually been in a defensive posture, having to respond to many externally imposed threats to its existence. Many of these threats have been the direct result of B.I.A. actions. Hence, little time has been available to develop programs and organizational and management capabilities in a supportive, non-coercive environment.

6. Recognition of the costs associated with location in an isolated setting.

These costs are higher than those associated with school operation in a more urban setting and include inflationary factors related to having to deal "sole source," higher freight costs, higher costs to attract and house personnel and higher insurance costs.

7. Recognition of the costs involved in compliance with mandatory reporting and recordkeeping requirements of the various contracts and grants utilized. We at Duckwater must adhere to the same basic reporting requirements as, for example, the Los Angeles County Schools. Also, in addition to the basic reporting requirements associated with a special grant or contract, we are continually confronted with the excessive and often redundant "information" requirements imposed by the B.I.A. as part of its general operation.

8. Recognition of the "penalties" of small size. These include not being able to avail ourselves of the advantages of volume buying and the more general problem of not being able to demonstrate "statistical" economics; that is, when the costs associated with providing a specific function are assessed according to a cost benefit ratio, a small school would appear to operate less efficiently than a larger school when, in fact, such a comparison is irrelevant because of the constant nature of many costs.

Specific features of the proposed regulations which function to either prohibit or inhibit the operation of a small, isolated community controlled contract school include:

1. In general, the formula does not recognize nor provide for the unique costs generic to contract school status. The most significant area neglected is the provision of administrative costs. Comments by both B.I.A. education staff and Task Force members indicate that the assumption is that administrative costs for contract schools should be adequately provided for thorough indirect cost rates negotiated pursuant to P.L. 93-638 provisions for "contract support funds." This assumption is fallacious as not all contract schools have indirect cost rates nor has consideration been given to the limitations placed upon those funds. No attention is paid, for example, to the fact that indirect cost rates are not negotiated with Education Division personnel but rather by both the Office of Audit and Investigation and the B.I.A. Property and Supply Office. Also, it is entirely possible that especially in the instance of a small school, the indirect cost rate may be as high as 100%. To the uninitiated observer, this would appear to be "excessive" and, consequently, difficult to negotiate.

2. In section 31a.3, the stated B.I.A. mission is to provide "quality education opportunities from early childhood through life. . . ." The Duckwater community believes in the philosophy of lifelong learning and, consequently, has endeavored to provide comprehensive educational services through the Duckwater Shoshone Elementary School. Specifically, a pre-school is operated in conjunction with the K-8 program. However, the present regulations do not provide for funds to operate the pre-school.

3. In sections 31a.4(h), 31a.4(l), and 31a.4(o), emphasis is placed upon the necessity of research and development activities. Presumably, the B.I.A. is being provided administrative funds to conduct R & D activities, but the present regulations do not address the R & D needs of contract schools. As we have suggested, in the absence of such resources, contract schools are left to rely only on B.I.A. generated programs, thus destroying the integrity of the local school.

4. In section 31h.11(b), "basic program" is defined as the "instructional program provided all students at any grade level." In the situation of Duckwater, individualized instruction is emphasized.

This differs from many B.I.A. schools. Are we to consider the graded, group instruction approach typified by Bureau schools as "basic" and our ungraded, individualized approach as supplemental? If so, the formula clearly does not address legitimate pedagogical differences.

5. In section 31h.14, the entitlement for small schools is based upon the need to distribute presently available resources and not predicated upon a reliable identification of actual small school costs and, therefore, does not address need.

6. In section 31h.20, the Director is instructed to consider the "feasibility of incorporating other factors into the weighted pupil formula." In our opinion, this violates the intent of the Act which states that the factors identified (e.g., isolation and early childhood development) shall be considered. By limiting the Director's actions to the determination of feasibility, the present regulations function to exclude such considerations as determinants in the formula.

7. In section 31h.22, the Director is instructed to adjust the entitlements for contract schools by including funds appropriated for aide to schools under the Johnson O'Malley Act and under Title IV of the Indian Education Act. We maintain that such consideration of JOM and Title IV, Part A (LEA) funds is a violation of the requirements that funds appropriated under those Acts are supplemental and are not to be used to supplant basic support costs. Furthermore, the inclusion of funds received under Title IV, Part A (non-LEA) is problematic as

such funds are competitive and, therefore, cannot be counted on. They are also to be used to fund a variety of research and development functions, and to include them in arriving at "equalization" would be to limit their use. The B.I.A. would be in the position of de facto determining U.S.O.E. programs.

8. In section 31h.37, contract schools [illegible] required to account for funds according to "uniform accounting methods." This provision appears to be addressed to B.I.A. schools and conflicts with P.L. 93-638. Contract schools are required to adhere to 25CFR271 and the procurement regulations in 14h-70.

9. In section 31h.38, allotments can be withheld due to noncompliance with the conditions for receipt of those allotments. Not only is this a punitive measure which directly impacts children--not managers--but it also appears to potentially effect contract schools more severely than B.I.A. schools because it conflicts with the Bureau's legal mandate to provide educational services.

10. In section 31h.50, the concept of apportionment schedules is irrelevant to contract schools which operated according to P.L. 93-638 contracting procedures (e.g., cost reinburseable contracts).

11. In section 31h.45(b), authority is granted to the Agency Superintendent of Education to "effect and adjust" contracts with tribally operated schools. The meaning of this section is unnecessarily vague as to what constitutes "adjustment" as well as conflicting with P.L. 93-638 contracting procedure.

12. In section 31h.55, the authorities granted to the "responsible local fiscal agent" directly conflicts with tribal policy.

13. Section 31h.60(c) appears to be mandating a specific accounting procedure which conflicts with the accounting procedures currently utilized by the Duckwater school. We presently operate according to an accounting procedure based upon HEW Accounting Handbook I. Discrete programs are accounted for as separate contracts or grants (e.g., Title I, JOM, Special Education). Consequently, we are complying with the intent of the regulations, but to comply with the specific accounting methodology suggestions would represent considerable time and cost.

14. With regard to student transportation, we have no specific response other than to state that based upon the simulated entitlement provided us by the Bureau, we could not provide student transportation.

In general, we feel that the regulations as presently drafted contain numerous, major conflicts with both P.L. 93-638 regulations and tribal policies, and to be forced to operate according to them would compromise the interests of the Tribe and destroy the integrity of our school.

STATEMENT OF BOB NELSON, DIRECTOR, DUCKWATER SCHOOLS, DUCKWATER, NEV.

Mr. NELSON. Mr. Kildee, there are a number of issues that I would like to cover, and I am going to be as brief as possible and somewhat general, and I would encourage you to interrupt me and ask questions as I go along. I think that might facilitate getting our message.

I think a point that has to be made before we address whether or not a formula adversely affects us, as Mr. Millet said, it would shut us down because it will not afford us enough money to operate. I think the point is to distinguish between essentially contract schools, a school like Duckwater, a community controlled school, a community school, and Bureau of Indian Affairs schools.

I know that you are quite sympathetic with the ideals of community education as evidenced by your support of the community education bill, and we thank you for that support although we don't have ready access to any funding that comes from that bill.

We are talking about a process that involves the community, not only in terms of allowing them access to decisionmakers, but places them in the position that they are decisionmakers, that they are involved in daily operation of the school, that they are involved in determining curriculum and providing instructional programs. It affects the very administration, the organization of your program.

For example—and here is a friction; here is a tension—community schools do not function well when they are organized along bureaucratic structural lines. There are many reasons for that. An example, and this will be a nonschool example, but I was reading an article recently by Peter Drucker, where he comments about General Motors attempts to redevelop Detroit and around their office, and he called General Motors the most sophisticated organization in the world, most efficient organization in the world.

General Motors put its experts to work in solving a community problem and did not solve that problem—in fact, have run into problems now because they were unable to determine what it was that people wanted. So, applying bureaucratic organizational principles to a contract school does not allow that school to function in a responsive manner to needs, identified needs. A term that I think you will probably be familiar with, would be the synergistic response to problem solving, which I think is at the nexus of community education ideals. I make that distinction, because that flavors how we interpret the regulations, how we interpret the formula, how we see the Bureau administering that formula, and how in very subtle ways, maybe not very explicit ways, but in very subtle ways, how, while the regulations spent three pages talking about facilitating community control, this will usurp the power and authority of communities to control their own educational processes.

Now, another distinction I think is important is that a lot of the language here seeks to allow the opportunity for the development of community schools. We have a community school; we are a living example of that wisdom.

Let me go on, then, to some specific factors that pertain to contract schools that do not pertain to Bureau schools, and cost factors. One is negotiation of contracts. What I am attempting to address here is the fact that the regulations do not provide for administrative costs. They are totally inadequate. One of the comments or questions that was just asked of the prior panel was how much money is going to be contributed to school or training. I think that is only a very small portion of administrative costs.

Negotiation of contracts: To maintain an equal balance in the adversarial relationship that exists in arm's-length negotiation of contracts, the school board is going to have to have a variety of resources to support their position.

Development of standards: In the regulations it comments that standards will be developed by the Bureau, but that there is the option for schools to develop their own standards if they do indeed desire to do so. If you don't have enough money to develop your own standards, you are left to accepting what has been developed for you, whether or not they address your needs.

The effects of BIA regulations and procedures—I am asking a question. I am concerned with how do we identify costs associated with responding to involving ourselves in this very process. We, as a contract school, must seek out information because it is not readily available to us. Even though there is a lot of money spent on the dissemination of information, we have to actively seek it out and analyze it, and we have to problemitize it in terms of our situation: what is it going to mean to us? If we agree with it, there are costs associated with complying with it, and if we disagree with it, what do we do?

I have heard the question asked repeatedly, well, what would you do? What would your formula look like? I think that is an unfair question to ask because you are assuming that we have a helluva lot of time to devote to that process. No, we don't. That is a basic inadequacy.

General administrative costs: We must provide for a variety of services from accounting services to legal services. I heard one of the prior panel members talk about the effects of the Lau decision, for example. Well, I am certainly not capable of telling the board what potential impact that might have on their decisions, so we are going to have to seek some legal counsel.

In relationship to questions, do we have to comply with Bureau regulations, for example? Many of them are meaningless; they are redundant. Do we have to comply? If we don't comply, what are we looking at in terms of punitive kinds of responses that the Bureau might take?

Contract schools are still experiencing a lot of start-up costs. Let me comment on the origin of a lot of contract schools. They started as a result of a need, a community need. For as long as Duckwater has been in operation, we have been in a defensive position. We have been attacked not only by the State by which the reservation is a boundary——

Mr. KILDEE. You don't want to get sovereignty confused.

Mr. NELSON. That is right. I think I will back up on that one. But the Bureau itself has acted repeatedly to the detriment of contract schools in not only the regulations, promulgating and enforcing regulations, but in the actions of many individuals within the Bureau.

The most effective one they have is simply withholding money from you and not processing reimbursement requests on your contracts, et cetera. So that we have been in a defensive posture which has limited our ability to develop those capabilities which adhere to or pertain to the daily operation of a school which are future oriented, which concern us of planning.

We can't plan. We don't know, for example, how do you plan when you don't know how much money you are going to get and you don't know if you are going to get any money next year. I simply give you that as an example.

Contract schools also, I think, have a right to provide their own experts or seek their own experts. One of the misnomers I think is that the Bureau will provide your expertise.

Shall I go and ask the Bureau contracting officer to decide on a disagreement that I have with him? That is an example. No, we should have a right to seek our own experts.

Duckwater is a very small school. Let me give you a brief outline of the services we offer. It is a K-8 program. There are 24 students. We also operate a preschool. We are isolated. The nearest town via a paved road is Ely, Nev., which is 70 miles away.

Cost factors which are not considered in the formula but which we experience because of our size are inflation that comes from having to deal sole source, having to pay exorbitant freight, not only to Ely, which is the only freight depot, but having to go in and pick up whatever supplies we might have.

That is also an issue that cannot be handled by planning either because, for example, to operate our hot lunch program we must have fresh milk, which necessitates making a weekly trip to town.

Insurance costs, because we are isolated and because we do not have the services that ordinarily are provided in a municipality—for example, fire protection—our insurance costs are higher.

We have added costs for personnel, to attract them to live in a very rural, isolated area, to house them. Right now we have one of our two teachers living in a trailer that we were able to buy from someone. It is falling apart. It leaks. It is inadequate.

The other teachers live in an old barn or a house that became a barn and then was converted back to a house. Costs with compliance and regulations was addressed prior.

We operate right now five grants or contracts. We have to do the same amount of paperwork that a large school does. We have to fill out the same forms.

In addition to that, the BIA is continually inundating us with revised procedures and requests for information. For example, our title I project which last year was for $9,500, the forms that we were required to fill out were 14 inches high if you stack them one upon the other.

Our "special ed" recordkeeping requirements, those that come from the Bureau, that is, are about 13 inches high. Those are just two programs.

I provide you with that graphic information to conceptualize how much time it takes to simply keep records But it is a cost that we have.

Other penalties of size—I already talked about insurance cost itself being higher because we are in a rural isolated area. But because we are small does not benefit us, either. The rates that we are charged are predicated on across the industry.

So, we are handicapped. We are charged the same rates that a large municipality would be charged and they do have a number of losses. Plus, an additional factor is added on for isolation.

We don't have any economies of volume buying. We could indeed save money if we could buy as a larger district can in volume. In general, the small school does not have what I will call statistical questions.

The ratio of the expenditure per pupil, establishing a per pupil ratio; for example, inservice training, the costs on a per pupil basis much more to provide inservice training than it would a large district. I mean, one trainer to train 4 people costs the same as to train 40 people.

Generally, those are some distinctions that adhere to the contract school status and the fact that we are all small, isolated and a community controlled school.

Some specific problems that I find with the regulations which I would maintain are drafted with absolutely no consideration of the contract schools, and I will just go through quite quickly:

Authority delegated to a local fiscal agent in the school. I think it is in section 31(h) 55, the grants authority to an official, which essentially would be me, to approve expenditures.

I do not have that authority. The school has that authority. That conflicts with local policy and would do violence to it.

I have a question in the policies that it speaks of, the mission of providing early childhood through adult education. There is, as far as I can see, no consideration of an early childhood program. We have an early childhood program in Duckwater that is integrally connected to the K-8 program. It is a small one, but it makes a heck of a lot of sense.

There again is no provision for that. In the section that deals with the identification of those moneys that will be included in the formula, it completely excludes bureau administrative costs from becoming eligible to disbursed across contract schools.

We are then at a distinct advantage. The assumption is or I heard that you people can collect that off of your indirect cost rates that you negotiate on your 638 contracts. That assumes that you have those costs, indirect cost proposals approved. That assumes that you will be able to negotiate a reasonable and direct cost rate.

In Duckwater, for example, to comply with all the regulations, we may very well have 100-percent indirect cost rate in comparison to our direct service costs. That would be very difficult. A total amount is not unreasonable, but it appears it would be unreasonable if you have a 100-percent rate.

It would be very difficult to negotiate with a bureaucrat. The withholding allotment provision appears to me to be strictly punitive in nature. Who are we punishing by withholding an allotment?

In a number of sections of these regulations I can see a response to some of the comments that we have made in prior years about the way the Bureau operated in an attempt to "pull the Bureau into line."

Well, what happens is that it is penalizing us more than it would be penalizing the Bureau.

The other situation I would agree with Mr. Holm with regard to no carryover authority. We do have carryover authority under 638 regulations. I forget the exact section but there is carryover authority under that contracting procedure.

That still does not address the issue of being able to provide for reserve capital to meet unexpected situations. The requirement that uniform accounting provisions be established—in other words, where we are going to be accounting for funds on a program basis—will cause us much trouble because we have developed an accounting system which is modeled after HEW Handbook 1, I believe it is called, and it is now in place.

We have trained everyone to operate according to that. If we are made to, if these regulations are implemented as they stand now, we will completely have to redo our accounting system.

Now, we have provided the committee with a complete policy and procedures manual so you have those to review. I think that is all I have. We could go through section by section but——

[Information submitted retained in subcommittee files.]

Mr. KILDEE. We appreciate your testimony. At this point I will not ask questions.

Mr. Deasy?

STATEMENT OF MICHAEL DEASY, DUCKWATER SHOSHONE SCHOOL, DUCKWATER, NEV.

Mr. DEASY. For the record, some comments concerning construction would be all my comments at this point.

The construction division and facility inventory is restricted to, as it was with 93-638, is restricted to schools of 25 students or more. We have less than 25 students. The school is housed in an old church which is deteriorated. It has not been kidproofed. It cost itself quite a bit to maintain that structure.

Duckwater will be precluded from participating in a school construction program under the regulations. We have requested the commissioner to waive the 93-638 provisions, and that request has been denied.

Mr. KILDEE. I have to go over and cast my vote. I will be right back. In order to save time I will let the two counsel ask questions, and I will be back in my usual 8 minutes.

You may continue with your testimony and if there are any questions, the counsel can ask them.

Mr. NELSON. A question that I have, or something that I have discussed with you before——

Mr. LOVESEE. Excuse me. Let me interrupt.

Have you finished, Mr. Deasy?

Mr. DEASY. As soon as Bob finishes, I would like to make some comments on a proposed formula.

Mr. LOVESEE. You have finished on the construction part?

Mr. DEASY. That is right.

Mr. NELSON. On 31(h) 22 where the director is instructed to consider the impact of supplemental funds on the equalization formula, I would maintain specifically looking at title IV of the Indian Education Act and Johnson-O'Malley funds, I would suggest that to consider those moneys and thereby reduce the amount of money available for basic support would be violating the requirement that funds from those two programs should be used to supplement and not supplant.

I brought that issue to you 2 days ago. I would say that our position would be that they should not be considered. That is all I have right now.

Mr. LOVESEE. Mr. Deasy?

Mr. DEASY. As Mr. Miller said, the formula as drafted now will end up closing the Duckwater school. There will be insufficient money to operate the program. I would like to suggest that a formula be devised which is based on a minimal amount of dollars for any school.

We are among the smallest of the Bureau system. We need a minimal amount of money based on the actual operations costs of the small schools. It could be devised and the statute is broad enough to incorporate a class of that nature.

We are very apprehensive that if the formula as presently drafted is allowed to stand and go through a [illegible] and then be revised to reflect actual needs or actual [illegible] the starting point for the new formula will be the present formula, which we consider inadequate.

Mr. LOVESEE. Thank you, sir. If I may [illegible] ask one or two questions and move along. Mr. Sollars, would you please describe your school very briefly for the record, from the standpoint of student body, approximate faculty numbers. I am also interested in a little bit of the history of the school from the standpoint of when it was founded and what some of the conditions were.

Mr. SOLLARS. The Wyoming Indian High School was founded in 1970 as a result of a community need. Our first graduating class in 1971 had one student. This year we graduated 23 students.

As I say, it is 100 percent rural. We bus approximately 90 percent of our students. We have a faculty of 13 at the present time, 13 certified people. Again, the funding is not the point that we are looking at a reduction in basic staff. This is to the point that it might affect the North Central Accrediting Association, of which we are a member.

We talk about the quality of education and the fact that the intent of this law was to improve. Here we are talking about applying a formula which is going to bring regression to our program and at times when the school is being accepted by its peers and its community on a comparable level with the adjacent public schools of the same size.

The formula does not provide for the need for special staffing, transportation or special education programs. It is all tied to a 1.3 per student. This again I feel is unfair because it does not take into consideration the fact that we do not operate an elementary school with it or that we are a large number or we are attached to a boarding school.

The other formula criteria is not available to the 9-12 program. At the present time our school consists of enrollment of 118. Now, the law does provide for revision of your ADM. Of course, under a special HEW grant we are beginning construction on a vocational tech center.

We have run community surveys on this. Again, it has been endorsed by the community school board as being the need and the direction in which they would like to see our school go. With the completion of this building, we may find ourselves in May with a 100-percent increase.

As compared to a public school, we do not have a bonding reserve, nor will we have the ability of a carryover factor from which to draw upon. So the funding formula as applied to our average daily membership on October 1 and again revised in March is what we are going to have to live with.

The funding formula does not provide a contract school with the opportunity to go into hock, per se, or overspend or go to a bonding company or pass a bonding issue. So someplace the funding level has got to provide an operating capital for the school to take care of emergencies and a contingency fund.

These types of funds are available to the public school. We are talking about making Indian education comparable and equal to. Yet, by the very appropriation of this bill it says minimal.

Are we talking about a survival rate for Indian education? The word "survival" bothers me.

Mr. **Lovesee**. Excuse me. You say the bill contains minimal?

Mr. **Sollars**. I believe that is what it is. It states that the minimal expenditure of funds—the point I am trying to make here is which the amount of money in the appropriations does not equal that that is being provided to public education.

Of course, there has been a tie-in between funds available and the quality of education. We are talking about the appropriation being virtually the same this year as it was last year for Indian education.

Yet, I hate to come back to the State of Wyoming. They have raised their classroom unit next year from $18,200 to $27,500. This includes inflation and the natural growth of schools. But this is not available to Indian education.

Mr. **Lovesee**. Unfortunately, let me interject here that that does not come within the purview of this particular committee. However, I think the committee shares that particular concern. Increased funding is one of the main ideas in 95-561.

Mr. **Sollars**. I am attacking the funding formula because there is not enough money to satisfy the needs of secondary education. But in doing that I also realize for that funding formula to be increased it has to come at the expense of some other type or some other section, and it is just not there.

Funding formula, I think the subcommittee should be commended on their efforts to come up with a just formula even though the funds are not available.

Mr. **Lovesee**. So in other words to the extent that the weighting factor is a problem with the formula, being 1.3 instead of perhaps 1.5 as you point out in your testimony the major problem is the amount of money.

Mr. **Sollars**. Very definitely. The amount of funds available to us this year prior to the adjustment would have reduced us 34 percent. Now, this is without consideration of the inflation factor.

With the adjustment into the entitlements, it raises us back up so we have a 21-percent reduction. But again, at the time when we are growing, this becomes extremely difficult, but there is no place for us to go.

Mr. LOVESEE. Do you anticipate that things will change after a needs-based formula is implemented in fiscal year 1980 as opposed to the equitable distribution of current resources formula being proposed?

Mr. SOLLARS. I think this becomes—you have to believe and have to have a little faith in your fellow man to say yes, it will improve. However, for this class of 1979-80 you have a dead span in that educational system and in that education school because you are unable to plan because it is like a dice game.

You are playing the role and hope better things will be on the horizon. But for the school to plan and develop within the school year they have to wait and see what happens. In the administration of the school it becomes very difficult to plan which is part of the system.

Mr. LOVESEE. With respect to priorities and contingencies, as someone else testified to—I believe it was Ms. Edmo testified on this earlier—a reduction of 10 percent—would not have the catastrophic effect that a reduction of 20 percent possibly would have.

Would you respond to that from a standpoint of the effects on your particular program?

Mr. SOLLARS. The effect on our particular program, each 1 percent, is certainly a plus to us. We are at a standpoint of again reducing staff, which is going to reduce our curriculum offerings, which is going to affect our North Central accreditation.

The 10 percent would be easier to live with than the 20 percent. We are talking about additional bus routes, classroom equipment, additional custodians and these types of things.

You have a better chance of absorbing 10 percent within your existing budget than you do 20. Even though the 20 percent comes and this is it, the 10 percent you are still hoping that you, by a needs assessment, will be able to prove that you have additional transportation costs with the idea that this becomes the low, rather than being the bitter end.

We would find it much more comfortable with a 10 percent reduction than we would 20 or 21.4. I think I was confused.

Mr. LOVESEE. Would you provide for the committee the overall budget with respect to the total figure for the school and also with respect to any particular input from title IV? You can submit that for the record.

Mr. SOLLARS. I believe I have that in my informational sheet.

Mr. LOVESEE. That is part of your testimony?

Mr. SOLLARS. Yes, sir.

Mr. LOVESEE. Let me ask the people from Duckwater the same question.

From the standpoint of implementation of a formula which is contained in legislative language, from the standpoint of time line, what would be the difference to your situation in a hold safe mechanism of perhaps a lesser percentage than is currently proposed?

Mr. MILLER. What I was discussing here, we are talking about as was mentioned, a 10-percent reduction rather than a 20-percent reduction. I believe the school could live with a 10-percent reduction, but what does it mean?

According to the BIA printout in 2 or 3 years down the road—that is the concern we are having now—what is going to happen then? A 10-percent reduction for this year, our school would probably be able to live with. But the concern is what is going to happen in the future.

Mr. **Lovesee**. I believe the language, of the bill is such that beginning in fiscal year 1980 there would be a needs base formula as opposed to the formula which is being proposed here. Obviously this is not a need base formula, because the basis for such, standards and information, is not available. It is a transition formula, a transitional step to begin the process.

I know that Mr. Nelson has some concerns with respect to it forming a base which would be inadequate for a future formula.

Mr. **Nelson**. Exactly. At present, it does not have a needs base. I would take issue with the validity of the information that was used to determine the present formula, specifically the historical analysis, for example.

Mr. **Lovesee**. I don't think it was meant to be a needs base. I believe that the task force took on the task under an equitable distribution mode, as opposed to a needs base formula mode.

Mr. **Nelson**. OK. Mr. Mack, one of the developers of the formula, commented, and I think to this committee, that it appeared he felt that this formula will, with minor alterations, be quite workable. Now, it seems to me that you are suggesting that we would say that, no, minor alterations to the formula will not work. We would suggest that a separate formula which recognizes difference in classes among schools. I say classes because I am not even sure you can say contract school and Bureau school. You have within the class of contract schools some that were again initiated from a needs base, some that were previously Bureau schools.

At any rate, I would say minor alterations would not be appropriate.

Mr. **Lovesee**. I would not presume, of course, to speak for Mr. Mack. If his statement was that the final formula to be put into effect for the future would be this, with minor alterations, then there may have been a misconception on the part of what this formula is meant to be in the future, after the other task forces have completed their tasks. However, having had discussions with him on this particular problem I would propose a solution out of this by saying what he meant was that this proposed formula with minor alterations would be the transition formula for the single year period. But I think from the standpoint of the intent of the legislation the idea that the transition formula would become set in concrete was successfully refuted by the testimony received here at the last hearings with respect to the standards task force, when the committee members and the task force were in substantial agreement that the formula would be rewritten next year after they had completed their work. Therefore, this was a transition formula situation.

Mr. **Kildee**. I think this subcommittee will attempt to clarify that with the proper people in the agency. I know formulas are very difficult. I was in charge of school aid formulas in Michigan for 6 years before coming here, and we used to have a two-type formula, an A formula and B formula. The difficulty was, of course, trying to arrive at objective criteria to determine who was in B and who was in A, but once we did that, we could apply a formula. We recognized certain differences and then applied the formula to that. That is one possible approach. I do know that we certainly don't want the schools to close because of a formula, and I personally, again, want to check with the agency on how the formula impinges upon the financial ability of the Duckwater Schools to maintain their integrity and keep operating.

Mr. **Nelson**. Going back to some of my initial statements about the difference in the value of the community schools, what is operation? We must define that. You talk about the integrity of the school. We are not in the business of survival, if we are going to look at it from the standpoint of survival.

Mr. **Kildee**. That is why I used the word integrity; it goes beyond survival.

Mr. **Nelson**. That is right. And having to rely, for example, on Bureau assistance erodes that integrity in very subtle ways, simply by legitimating certain ways of thinking and delegitimating others. Certain ways of looking at problem solving, for example. We evaluate extremely well by using pre-post test California achievement test. However, I am not sure that that accurately identifies our success, if it provides us with management information that we can use to improve the body of education. I am simply suggesting that maybe we ought to consider contract schools as a goal. In other words, everything should be structured to begin to facilitate throughout the Bureau system what exists in Duckwater, for example.

Mr. **Kildee**. The eternal struggle, I know, in school financing is always trying to retain local control, local decisionmaking, with the centralization of funding. That was a problem in the State of Michigan, when I was in charge of the school aid bill. It is always a question whenever we talk about any increase in Federal aid to education in general.

I think we have to be very careful. I agree with you, that if the school is a community school, that the community have the direction to set a philosophy and the goals for that school as practically and reasonably as can be done. I think that is an important factor.

Does anyone else have anything to add?

If not, we appreciate your testimony. And again, we want to keep in contact with you, and want you to feel free to contact the committee at any time also.

Thank you.

Next we have Pyramid Lake. If it is agreeable to that body, the subcommittee would like to submit questions in writing to them. And answers will be submitted for the record.

[Information retained in subcommittee files.]

Mr. **Kildee**. At this time I am going to use the prerogative of the Chair and form a panel of Ms. Joyce Reyes, director of technical assistance, United Indians of All Tribes, Seattle, Wash.; Ms. Viola Peterson, chairperson, National Advisory Council on Indian Education, Washington, D.C., a person who has been a friend and adviser of mine for more years than either of us would admit, and I deeply appreciate her presence here today; and Mr. Joseph Dupris, Coalition of Indian Controlled School Boards, Denver, Colo.

Because of unavoidable circumstances, representatives of the National Tribal Chairmens Association, the National Congress of American Indians, the National Indian Education Association, and the Tulsa Indian Youth Council could not be here today.

The NCAI have associated themselves with the remarks of Mr. Dupris of the coalition, and the Tulsa Indian Youth Council has submitted testimony. However, the record will remain open for a time to guarantee the committee a chance for input from all of the invited witnesses.

Would counsel like to make a statement?

Mr. LOVESEE. In the interests of fairness, I would like to make a correction.

One of the questions I asked Mr. Sollars may have left an incorrect impression. I have just been reminded that he was correct on a point and I want to correct any misconception that may have been left. It pertains to the question I asked him about where the words "minimal amount" were contained in the statute. They are contained in section 1128(a). If I may read the context in which they were used.

"Section 1128(a). The Secretary shall establish by regulation adopted in accordance with section 1130(a) a formula for determining the minimum annual amount of funds necessary to sustain each Bureau or contract school."

I think the problem I was having in understanding the situation was the juxtaposition of the term "minimum amount" and the State formula that you were talking about at the time.

I will be perfectly honest, I did not remember this language, because it does not mean the same thing to me that it means to you. To me it is a term of legislative art, which simply says one has a floor below which one may not go. And it relates further down to another subsection which states that the standards of 1121 and 1122 have to be met.

But I wanted to correct the misconception. Mr. Sollars was correct, and I think the record should reflect that.

Mr. SOLLARS. Thank you.

Mr. KILDEE. Would those at the table identify themselves, please.

Mr. DOSS. I am Michael Doss, executive director of the National Advisory Council on Indian Education.

Ms. LEMAY. I am Francis LeMay, president of the Coalition of Indian Controlled School Boards.

Mr. KILDEE. Thank you very much. If you would proceed in any order you wish.

PANEL: JOSEPH DUPRIS, EXECUTIVE DIRECTOR, COALITION OF INDIAN CONTROLLED SCHOOL BOARDS, DENVER, COLO.; REBECCA ADAMSON, BOARD MEMBER, COALITION OF INDIAN CONTROLLED SCHOOL BOARDS; SUZY ERLICH, SECRETARY/TREASURER, BOARD OF THE COALITION OF INDIAN CONTROLLED SCHOOL BOARDS; JOYCE REYES, DIRECTOR OF TECHNICAL ASSISTANCE, UNITED INDIANS OF ALL TRIBES, SEATTLE, WASH.; VIOLA PETERSON, CHAIRPERSON, NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION, WASHINGTON, D.C.; MICHAEL DOSS, EXECUTIVE DIRECTOR, NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION; AND FRANCIS LEMAY, PRESIDENT, COALITION OF INDIAN CONTROLLED SCHOOL BOARDS

STATEMENT OF JOSEPH DUPRIS, EXECUTIVE DIRECTOR, COALITION OF INDIAN-CONTROLLED SCHOOL BOARDS, DENVER, COLO.

Mr. DUPRIS. I am Joseph Dupris, Coalition of Indian-Controlled School Boards, executive director. We have two other members of the board present who will be with us shortly: Rebecca Adamson and Suzy Erlich.

At this time we wish to thank the chairman for his efforts on the floor with the amendment which opposed the transfer of the Bureau of Indian Affairs to the new Department. We were excited and happy when we were able to watch from the gallery the action on the floor.

Again we formally thank the chairman, as well as Representative Foley, who cosponsored that bill. I am sure that the National Tribal Association and NCAI will join with us in that type of congratulations. Thank you.

Mr. KILDEE. I want to congratulate the Indian community for their tremendous job of communication to the Congress. It really was something that others could replicate in trying to find out how to be effective. It was an excellent job.

Mr. DUPRIS. I have been asked to assist in testimony with the National Tribal Chairmens Association. They have had difficulties in arriving here, due to airplane travel and engine trouble in airplanes and such. And they will be submitting additional testimony at a later date.

Mr. KILDEE. Very well.

Mr. DUPRIS. On behalf of the National Tribal Chairmens Association, I am offering to the committee some educational policies which were adopted by the NTCA Education Committee relating to 95-561 and their involvement in the task forces and their belief that the tribes and tribal governments should be clearly representing the Indian community in various aspects related to the nation-to-nation relationship which is so dear to the educational trust. And I will present that so that you will have that available to you.

Now, at the May 3, 1979, meeting with NTCA, Rick Lavis and others, representatives from the tribal communities, discussed these policies and procedures which they have suggested. And as being involved in the task force projects of the Bureau of Indian Affairs, they have specific items which they believe must be addressed, and they believe that the Education Committee of NTCA can provide valuable sources of professional and technical assistance to educational groups and organizations in consulting related to the tribal governments and the intertribal councils related to education. And these remarks will be extended by the National Tribal Chairmens Association at a later date.

We were also asked by the Tulsa Indian Youth Council to present a letter to Representative Carl Perkins and this committee, which we have done earlier. And you made reference to it already.

I believe they may wish at a future date to extend their remarks. I just make this for the record.

Mr. KILDEE. All right. Thank you. It may be made part of the record and any additional remarks.

[Information retained in subcommittee files.]

Mr. DUPRIS. I have submitted testimony. I will summarize that testimony. And then we hope we would be able to enter into discussion related to the various topics, utilizing the members on the panel and the coalition board who are also involved at various stages in the task forces and in the Indian community as such.

The Coalition of Indian Controlled School Boards is a national, nonprofit Indian organization, and as such our main focus has been with grassroots people and Indian control of Indian education.

It is particularly interesting to note at this point that the coalition and others of the Indian community took very clear participation in the Kennedy reports and were instrumental in placing some emphasis upon the need of the Office of Education to in fact publish rules and regulations, appoint the NACIE Council. And President Nixon was encouraged to release the funds that he impounded.

Now, with reference to that, we have included for your review the *Redman* v. *Ottina* court order, establishing NACIE, establishing the requirement that applications for the programs called title IV of the Indian Education Act be put forth. And a specific affidavit from the Special Assistant to the President relating to the appointment of NACIE members.

We are encouraged at this time that we do have a new director of NACIE, Mr. Michael Doss. And we have representatives from that committee who are actively involved in advising Congress and advising the Commissioner of Education and other executive departments related to Indian education.

We welcome Dr. Doss to the ranks and we hope that he has a successful term as an executive director.

The coalition, through its existence since 1971, has seen Indian education acts in the process of being passed and developed with the input of Indian communities. And we have noted that there has been some very clear language written into law.

However, it is in the implementation that the true test of the law comes about.

In 1975 we noted that in congressional findings and declaration of policy it was clearly seen by Congress, in enacting Public Law 93-638, the Indian Self-Determination and Educational Assistance Act, that there has been a historical precedent of the U.S. Government not listening to Indian people in the area of Indian education particularly. And the government of the Indian people, the tribal councils, have not always been listened to. And it has stated as such, that there is that special relationship that must be maintained and full opportunity for planning and implementation of Government programs should in fact be afforded to those Indian communities and tribes.

Now, we have noted that in 95-561, title XI, Congress once again emphasized its intent for establishing a clear policy for executive departments of the United States, by stating in section 1130 that it shall be the policy of the Bureau in carrying out the function of the Bureau to facilitate Indian control of Indian affairs in all matters relating to education.

We believe this policy statement in fact obligates the executive departments, including the Office of Education, to that commitment.

Vic Miller, Special Assistant to the President in the Reorganization Committee, indicated that commitment of the President at our annual meeting in December 1978, and the respected counsel, Alan Lovesee, also indicated that he had hoped, and I am sure that everyone who had a part in the law hoped, that it would be extended as well to cover all agencies of the Federal Government.

Now, whether by design or accident, there are some results of some techniques that are being used by the Bureau of Indian Affairs and the Office of Education in developing rules and regulations or not developing rules and regulations to implement Public Law 95-561. And that is what we would like to focus our attention on at this time.

There are two procedures which we believe have come to the surface, one procedure used by the Office of Indian Education and by the Office of Education in general is what we call a stonewalling technique. That is where meaningful input by Indian people is not afforded, any entrance into making the rules and regulations on a timely and meaningful manner.

Then there is another technique which we call the participation technique. That is being used by the Bureau of Indian Affairs. And that provides an appearance of meaningful participation. And that is being done through the task force arrangement.

Now, again, whether by accident or design certain key points, decisionmaking points, occur in the developing of rules and regulations. And both techniques, as techniques, involve what we term as closed-door secret meetings for those determinations.

We have some examples which we cite and can cite others at a later date, as to these techniques.

Let's first concentrate on a confidential document which we have included as an appendix A. And this confidential document was a document submitted by the Office of Education to Congress for the 1980 appropriations. However, this document was not made available at Reno for the testimony relating to these various same resource and evaluation centers, even though it had already been represented to Congress and was in fact referred to in the appropriations testimony. It was unavailable.

Now, this unavailability must be looked at in the frame of reference as to the impact of this type of decisionmaking and withholding of information.

We have within this document a map of the United States, and within this document it shows where the centers will be and who will be served and how many people will be served. This information was not derived from Indian people. It was not derived from Indian educators in the field. It was not derived from the tribal councils, or even the technical assistance agents. It was an inhouse document, made available to Congress, which structures the regional technical assistance centers and explains in many ways their activities, how they will function and so forth.

Mr. **Kildee**. Neither derived from input from you nor were shared with you, then.

Mr. **Dupris**. That is correct. We were also at a loss to determine how in fact the concept came about, because as a technical assistance center, we were not consulted on this issue, and I know of no other technical assistance center who was consulted on the issue. And there are approximately five technical assistance centers throughout the United States.

We had no knowledge of where this originally came from, the concept itself.

We have been told that the regional centers now in existence can be determined models, can be seen as model programs to be expanded at a later date. However, we were never referred to as being model programs until this had come out.

There are comments that have been put forth that only a limited number of people receive services. And I would put forth that if you do not provide money, and you restrict certain technical assistance centers to a geographical area, and you do not restrict others, such as the coalition, and give both inadequate funds, obviously you will find that people are without services, because you can only stretch a dollar so many ways.

Now, another key point in this confidential document. It seems as if only $500,000 can be provided per center. And when you spread that type of money out, it is minimal. You will find significant losses of service related to that type of funding process.

It is also seen within this document that it is a very, very limited type of service. And as you have heard before, tribes in Indian organizations, Indian communities, must have comprehensive services. And that is not referred to in this at all.

Mr. **Kildee**. For the record, I would like to note that we did not get that document, either. Had we gotten that document, I am sure we would have given it widespread publication.

Mr. **Dupris**. We believe that is why it is essential to have a hearing like we are having now, so that this type of information can be in fact disseminated appropriately.

One of the reasons why it was not disseminated earlier, it seems, is that the Office of Indian Education is in fact not going to use the granting process. And as such, the process of sending out requests for proposals on a contract basis is being used as a means by which to not communicate. And that is also a technique to exclude people, because it will prejudice the situation.

So anyone who knows about this document obviously cannot apply for a technical assistance grant, because there will be some sort of conflict of interest.

We wish everyone to know as much as possible about resource centers as they are being determined by the Office of Indian Education without the input of Indian people.

Now, this is only one example. We could go on and on related to this issue. But we believe that specific rules and regulations must be developed, and we hope that this committee would take the concept of rules and regulations as we have in the past seen issued by the Office of Indian Education, be promulgated and put forth on a timely basis, so that items such as Indian preference and service by Indian people, rather than States and universities, be put forth as a clear policy of the Office of Indian Education, as opposed to preferential treatment in the awarding of these contracts to either States or universities, for whatever suspected reason that they may have.

Related to this, let me also point out, in the second court order we have included, that is appendix B, and that refers to the *All Indian Pueblo Council* v. *Ernest L. Boyer.* And this in brief was an order that was put forth by the U.S. District Court for the District of Columbia, relating to the awarding or not awarding of a contract for approximately $175,000 for planning Indian control of Indian education by the All Indian Pueblo Council.

It states in here some very interesting points by a special review committee of how in fact people get funded by the Office of Indian Education. And we would hope that the counsel and the committee would review these special items as noted in this brief.

There has been for many years it seems suspected, and as this case points out, revealed arbitrary and capricious awarding of grants based upon not competition, but who you know and what your philosophy is.

In this case, what happened was a field reader score was changed in order to preclude the All Indian Pueblo Council from receiving a grant. That was based upon an internal definition of comprehensive education.

Now, that definition had not been published in the Federal Register. And since it was not published as a rule and regulation and definition so it could be commented on, then it could not be used. And since it was used, then the Office of Indian Education was enjoined from spending any more money until this was resolved.

It eventually turned out that they settled this out of court, because the Office of Education went twice to the court to ask them to evoke the injunction, and the court would not do such.

So we have two situations, not only the *Redman* v. *Ottina,* but the *All Indian Pueblo Councils* v. *Ernest Boyer,* which points out the position of Indian education in the Office of Education.

Also, if you take this in the context of the developing of the statute 95-561, title XI, part C, it points to the area which would give cause to suspect that the reasoning behind going to a contract rather than a grant would allow greater authority and control by the Office of Indian Education, without publishing any rules and regulations, which bind that office to actually putting forth competitive grants or bids and possibly sole sourcing those to whoever they may wish to sole source them.

We are concerned about that type of procedure. We are concerned about that type of confidentiality and noninvolvement. And we are concerned about how in fact the Office of Indian Education is going to function related to the States, related to Indian communities and so forth.

But clearly, we believe that there is an obligation for the Office of Indian Education and Office of Education to consult with the tribes. And there is an obligation to end the Federal domination of Indian programs by people in bureaucracies. And it should be their intent to fully develop the leadership skills at the local level. And as such, that is a set of examples related to the implemention on 95-561 and Office of Indian Education.

Another point related to the Office of Education. There is a section A. In section A there is an amendment to Public Law 874. And that section provides for a dispute resolution process for Indian community tribes.

When a public school receives 874 financial aid to federally impacted schools for Indian trust lands, and there are some 700 of them, when that school district designs programs for Indian children, this amendment to that law says that they must do that in consultation with the Indian tribes and parents.

If they do not promulgate rules and regulations as it says in there, such as policy procedures, which afford those opportunities of involvement, and actually create a situation where there is equal opportunity for education of the Indian child, the parent can go to the tribal council and the tribal council then can go forth and complain, and that complaint has very clear time lines. Those time lines go forth. And if it completes the whole circle, it takes about a hundred days to resolve the issue.

If the Education Commissioner, after hearing the briefs presented in whatever form, written or verbally, makes a decision after an appeal has been made from the initial decision, finds that the school district does not wish to or will not conform to providing the equal educational opportunity, or has in fact violated the intent of the law, then that commissioner can in fact stop the funding; not during the school year, but the next time they make the application.

I would point out at this time, after almost 8 months of preparation for the implementation of 95-561, that the Office of Education, and particularly this office which handles Federal aid to federally impacted schools, are not prepared for implementing the law.

They are prepared at this time to give only very open rules and regulations related to the monitoring and evaluation of this program, to the extent that they are not prepared to in fact monitor the schools receiving 874 funds in the application process, nor once the application and the money has been delivered to the schools.

The dispute resolution process, if left open, and with no training in mind, nor training provided for through funds or any other mechanism, places the tribes and Indian parents in a very, very unequal position.

It is clear that given a situation, an adversarial arrangement, which this dispute resolution provides for, and briefs and presentations and decisions made on the record, that an Indian tribe, an Indian parent that has not the resources cannot provide a clear and definitive statement. And they will in many cases lose in that circumstance.

It will be more costly than to appeal up through the procedures to the Commissioner of Education, thereby setting very poor administrative practice and policy.

There are many words, such as "opportunity," "meaningful input," "adequately disseminated" and others which have broad interpretations.

Adequately disseminate could in fact under these procedures be a posting on the door of some school building if in fact there is no advocacy related to that issue. And the Indian people would be no better off.

What I am referring to is the inability of the Office of Education to take an adversarial relationship seriously and to process and monitor for the Indian people. And as such, we predict that there will be very little done and a great deal of confusion.

Money has not been provided to train the tribes. Money has not been provided in any way to provide for technical assistance.

If in fact the tribes put forth a complaint, there could be 700 complaints about 700 districts all at once. And all of them valid.

Now, add to this that 874 does not even have application deadlines until next January and school starts in September, and the fact that one section of the rules and regulations may be viewed as you cannot stop payments in the middle of a school year, those in combination may preclude for perhaps 2 years any complaints or resolution of a complaint related to a school district. And perhaps even up to 3 years, if in fact the Office of Education waives for 1 year the requirements of a school district to comply.

So we would hope that the Oversight Committee and the counsel would review that in a very rigorous manner, to preclude mischief at the local level and preclude mischief to the process at the Office of Education Commissioner level.

It took 2 years to design this. And it can take less than 6 months to destroy it completely, unless there is something done about it.

Now I want to move to the Bureau.

We have experienced working in the task forces. We are not unfamiliar with the design. I am a member of the task force on education and standards, and I was placed on the task force, not because of my position with the Coalition of Indian Controlled School Boards, but my background, my education, and my commitment.

As such, we have committed ourselves to quality standards of education, and quality living standards in the dorms. However, the task force 3 in particular, and I cannot speak for the other task forces at this time, has been ignored. And such, we have been strung along, so to speak, in hopes that we will go away, perhaps.

And we have been told that we will get staffing. And we have been told that we will have quality information and data provided to us through contracting, what they term as small RFP's, so that we can determine educational standards in alternative relationships with educating children in, let's say, international education, working with indigenous groups within national boundaries, literature research related to educational standards and so forth. And then educational accreditation agency development for Indian education and others.

We have been told that these things will in fact be addressed meaningfully, and we will go ahead and proceed to get the data on a timely basis.

In fact, we have appeared before this committee not more than 3 weeks ago in which we did again make that commitment to finding means and ways to get these RFP's completed.

Within the last 3 days I have found out that those RFP's have been canceled and do not exist, and we have been told that the committee has agreed to this, and the committee has asked this.

I would put forth to you that the committee has not been asked and the committee has not agreed to this. And we have once again been strung along by the Bureau of Indian Affairs procedures, if not people.

Mr. **Kildee**. Counsel would like to ask a question at this point.

Mr. **Lovesee**. Would either you or Ms. Adamson please clarify a point, since you both testified at those earlier hearings which you have already referred to. Was it not your understanding that the RFP's for the studies you mentioned would be let within the almost immediate future?

Ms. **Adamson**. That was my understanding. My understanding was that at the May 14 oversight hearings we went on the record requesting five specific studies. And we had already submitted an RFP on the dormitory study.

We outlined and identified the other four remaining studies, of which I understood Mr. Lavis made a commitment to draw up the RFP and release the bids on those studies.

At that time my memory is Congressman Kildee even said he looks positively toward additional money, or supplemental money, if the task force so needed it. And all this I thought was in the transcripts.

We got a memorandum from the Bureau dated June 8 in which they told us unilaterally they were not going to do the studies. And they told us as we discussed funds for implementation that 95-561 was restricted so that they were not going to transfer additional money, and they could not do the studies.

Mr. **Lovesee**. Ms. Adamson, several points of clarification. That was Mr. Lavis, the Deputy Assistant Secretary of the Bureau of Indian Affairs.

Ms. **Adamson**. I can submit it for the record. I have the memorandum.

Mr. **Lovesee**. Would you submit the memorandum for the record.

Ms. **Adamson**. Well, I made some nasty comments on this copy. I can get another copy.

Mr. **Lovesee**. Subject to the Chair's permission, should we delete the nasty comments?

Mr. **Kildee**. Well, I think some of the nasty comments may make better reading. But I leave that to your discretion, as to what you want to submit for the record.

[Information retained in subcommittee files.]

Ms. **Adamson**. Could I just go through the history that we have had, just very quickly, on this whole thing. Because we submitted as of January, 6 months ago, what the task force had determined was necessary for it to progress and accomplish their goals, and month by month we received this type of reaction.

After the May 14 hearings we walked away thinking we had gone on record, and we were all of the same agreement that we needed these studies. And we were told now we don't need them. And also the time line now is one where it has taken us 6 months.

We submitted a staffing pattern for the standards task force and we requested a coordinator and a disseminator, and then two clerical positions. And as of May 29 the positions had just been written up. They have never been released yet. They haven't been advertised for. And this is 6 months past the initial request.

On that kind of time line these RFP's are going to come in 6 months after the deadline in the legislation anyway, unless we can do something.

Mr. DUPRIS. We have information which we will submit for inclusion in the record which includes the minutes of the meetings of task force 3 and one summary of 11 weeks of frustration, which was also submitted to the Bureau, Mr. Rick Lavis, related to the problems we were having in the task force.

Also I would submit at this time there were three letters written to Mr. Lavis from the task force chairmen relating the issues at the Denver meeting, which was not relayed to him in written form, signed form, as the task force had voted on.

So there are a number of situations which we have been trying to live with, trying to work with, in a very positive way.

However, at this time we see that clearly there is a frustration of the intent of the legislation by the process and through the process. And it is unfortunate that when we committed ourselves to quality education, and to high quality education of Indian children, that the process will preclude that from happening.

We believe unless the oversight committee takes a very strenuous and demanding look at this process, we have in fact come up with mediocre standards and it will not provide for quality education at all.

Ms. ADAMSON. At the time of the last oversight hearings, we had spent a little less probably, maybe even more than $51,000, just in task force travel, for our task force alone. And at each task force meeting we discussed standards. But we were not provided any resources whatsoever to do anything.

So in essence to draw a very accurate picture, we had 25 people sitting in a room talking about standards and one would say, "Well, I think we should write this" and another one says they think we should write that. And someone said, well, let's put it this way. You have 25 people talking about standards, with a lot of commitment to do it, but without any backup, resources, support. And we really had determined we needed these studies. We could not just do national standards out of our heads. It was totally impossible to ask 25 people to write standards and just make them up. That is what we were told to do, just make them up.

We spent $51,000 as of May 14. And we have projected, with this general report that we have now, that we will spend another $51,000 until August 1 doing the same thing, meeting. And we have gotten no studies, no resources, no information committed to us whatsoever. But we have another $50,000 we can travel on.

Mr. LOVESEE. Will the documents that you have mentioned here be submitted for the record?

Mr. DUPRIS. They will; yes.

Mr. **Lovesee**. Was the request for the RFP's a unanimous request on the part of the task force?

Mr. **Dupris**. Yes.

Mr. **Lovesee**. Were the chairmen of the task forces or any other individuals you are aware of empowered by the task force to cancel such requests?

Mr. **Dupris**. No.

Mr. **Lovesee**. Were you notified by Mr. Lavis of this action prior to the memorandum which you received?

Mr. **Dupris**. No; it was a surprise. For example, I received a letter to come to Washington, D.C., this week, to help write the standards. Now, if they sent me a letter saying please don't come, I might have received it in the office, but I have not seen it as such. It could have been processed.

Mr. **Kildee**. I would like to have counsel arrange a meeting with Mr. Lavis and myself and the minority counsel as soon as possible.

Mr. **Lovesee**. Yes, sir.

Mr. **Kildee**. Because I think that there is much I would like to ask Mr. Lavis. And I would like that done as soon as possible.

Mr. **Dupris**. We would make a note that even if we as tribal members of that task force split off and say, look, let us do it by ourselves, it would be even—well, it would be a travesty to say that we could come up with something without support. And it would be just as easy for us to be shut in a closet somewhere and the problem has gone away.

What we have been told before is if you are committed, you don't need help, all we need is some travel and that is it. And that's the problem.

If we broke off and tried to do it by ourselves, we would not have any resources for anything. We might be able to travel around a little bit. But that's it.

We have even faced difficulty in xeroxing papers. That is atrocious.

Let me put forth another item for the record.

We have an overview of our center, technical assistance process for the Office of Civil Rights Task Force remedies of 1976. It goes through the requirements necessary to provide services for linguistically and culturally different children. And those services are such that when you start delving into multicultural and multilingual services to Indian children, standards is not a simple matter. And I wish the committee to have a document like this, to see the types and breaths of not only technical assistance needed, but the types of services that may be provided.

[The document follows:]

·OVERVIEW OF THE LAU CENTER
TECHNICAL ASSISTANCE PROCESS
AND THE OFFICE FOR CIVIL RIGHTS
TASK FORCE REMEDIES
1976

NATIONAL ORIGIN DESEGREGATION CENTER STAFF:

Iris Santos-Rivera
Bob DiMarco
Robin Quizar
Alex Martinez
Mike Poolaw
Janet Peck
Virginia Montaño de Maestas

BACKGROUND TO BILINGUAL-BICULTURAL EDUCATION

Language and education are bound together. The content of education including many social values about language and culture---must be taught through the medium of language. In small homogeneous communities or nations, choices about language and education are relatively straightforward, presumable because there is a consensus among the population (s). However, in more complex, multilingual societies, these decisions create tensions between and among various groups over which languages to use, how to use them and who makes that choice. Throughout history in various parts of the world, when more than one language has been at issue, some form of bilingual education has been employed to help accomplish societal goals. The same is true of American history.

Bilingual education is not new to American education. In the early 19th century, immigrant groups such as Germans established bilingual schools to help maintain their language and culture; public school systems of cities such as Cleveland and St. Louis provided bilingual instruction; teaching English to non-English speaking adults was common. Multilingualism was considered a national resource. By the 1920s, however, a focus on national unity emphasized a totally English speaking society. Support of bilingual instruction by public institutions almost disappeared ·until interest was re-established in the 1960's when minority groups stressed ethnic identity, when educational needs and rights of non- and limited-English speaking children were asserted and when new procedures and techniques in education were employed to promote better learning.

A number of educational innovations introduced in the 1960's, including open education, programmed learning, the inquiry approach and bilingual education, focus on children as learners and attempt to provide them with effective access to the contents and benefits of education. Current efforts in publicly supported bilingual education specifically attempt to provide these benefits to linguistically different children by bridging the gap between the culture and language these children bring to school and the traditional monolingual English speaking school identified with mainstream American language and culture. The goal of bilingual education is to help linguistically different children maintain cognitive development and academic progress while they are learning English. The establishment of this form of bilingual education through public support is based on claims that inital literacy in the native language facilitates transition to literacy in English; that the bilingual approach allows children to learn English better than other approaches; and that it enhances the self-concept of language minority children, thus encouraging them to become better students.

The United States of America has always been and continues to be a land of linguistic and cultural diversity. Current estimates show that approximately 13 percent of the population--over 25 million people--live in households where languages other than English are spoken, and more than a million people (one-fourth of whom are school age) speak no English. Spanish speakers comprise the largest other than English speaking population in the U.S. Certain U.S. regions are known for their large concentrations of speakers of certain languages including the Mexican Americans of the Southwest, the Navajos of Arizona and New Mexico, the Eskimos and other natives of Alaska, the Hawaiians and Japanese of Hawaii, the French speakers of Louisiana and northern New England, the Sioux tribes of the Great Plains, the Puerto Ricans of the Northeast, the Cantonese of California and the Portuguese of New England. Major U.S. metropolitan areas are a great mix of ethnic and cultural groups whose membership varies in number and distribution. For example, in one Washington, D.C. suburb, there are over 50 language groups with Spanish, Korean, Vietnamese, Hindi, Arabic and Farsi among the more commonly spoken languages of the children who enter the school system. New York City, Seattle, Detroit and Chicago have large and even more diverse multilingual populations.

LEGAL BASES OF BILINGUAL EDUCATION

The legal foundations for bilingual education currently rest on state and federal legislation as well as on several major court rulings. Legislation gives official federal and/or state sanction or recognition to providing special educational services to linguistically different students. In addition it authorizes funds and establishes ways to administer those funds for helping local districts meet the needs of these students.

Federal Legislation on bilingual education centers primarily on the Bilingual Education Act (ESEA) promulgated in 1968 and revised in 1974, the next revision of this act occurring in 1978. The intent of bilingual education as defined in this legislation is to teach English skills while teaching content areas in the native language and appreciation of the child's culture. The Bilingual Education Act established an Office of Bilingual Education within the Office of Education; authorized the establishment of regional resource centers to assist in training of teachers and program planning, development of materials in various languages and program assessment and dissemination of materials; and established a National Advisory Council on Bilingual Education.

Other federal legislation has also made provisions for bilingual education. The Emergency School Assistance Act authorized some special funds for bilingual education and also established special regional assistance centers (General Assistance Centers, Type B; sometimes called Lau Centers) designed to assist schools in complying with desegregation and civil rights mandates and the Lau Remedies. Title I of the Elementary and Secondary Education Act, another federal compensatory education program, also has provided monies for assisting students with special language needs. To assist vocational education students of limited English speaking ability, the "Bilingual Vocational Education Act has authorized funding for materials, teacher training and curriculum development. Parts A and B of the Indian Education Act, Title IV ESEA, are designed to provide funds so that tribes and local education agencies can meet the needs (including language) of both public and Indian controlled schools in order to improve educational programs for these students and provide necessary adult education.

Title VI of the 1964 Civil Rights Act also has been interpreted as requiring equal treatment of students in education. The Supreme Court interpreted it (Lau v. Nichols, 1974) to mean that equal treatment may also include equal opportunity or access to the content of instruction and that some sort of special services must be provided for students who have difficulty with English. The Office for Civil Rights in HEW has been charged with the responsibility of identifying school districts which are not in compliance with the Lau ruling and with enforcing their compliance.

As with other matters involving state and federal jurisdiction, federal law prevails over state law when there is a conflict between the two. The 1974 Equal Education Opportunity Act put the Lau v. Nichols ruling into federal legislation and extended the mandate to all school districts, thus superseding state requirements. This means that all school districts whether they receive federal funds or not, must provide services to meet the special needs of linguistically different students. At the same time, this act permits a school to hire teachers with appropriate language facility to "fulfill" the mandate to overcome the language barrier from its general ban against discrimination in teacher hiring and assignment".

Court Rulings. In order to obtain needed educational services, minority groups have increasingly found it necessary to resort to litigation. This has been most notable in attempts to establish bilingual programs and desegregation. Several important court decisions and/or consent decrees which have established precedents regarding bilingual education will influence U.S. education for years to come.

Much recent litigation has followed in the wake of the landmark Lau v. Nichols decision. Lau v. Nichols contended that students of Chinese language background in San Francisco were being discriminated against because the all-English instructional program denied them access to the content of instruction. The Supreme Court, resting its decisions on the provisions of Title VI of the Civil Rights Act, found that such a situation did indeed discriminate against the students by denying them, in effect, equal educational opportunity. The Court therefore ruled that San Francisco must take affirmative steps to provide special English services for these students. The decision did not mandate bilingual education; rather, it avoided entirely the question of the best type of services to remedy the situation.

Nonetheless, two-and-a-half years later a plan requiring bilingual education in San Francisco was accepted by the court. The Supreme Court declared itself unwilling and in any event ill-equipped to interfere in states' responsibilities to provide specific kinds of educational programs. Yet, the courts may, on the other hand, impose strict standards on local districts in the matters of race or national origin discrimination and the schools "have the burden of presenting a plan and demonstrating to the court its effectiveness in remediating past unlawful practices of failing to open the instructional program to language minority students.

Litigation. Two important cases involving linguistically different students' rights to benefit from instruction resulted in bilingual education. In Serna v. Portales Municipal Schools (1974), the court, finding a violation of the Chicano students' rights to an equal opportunity to benefit from instruction, ordered the district to provide bilingual education following the plan proposed by the plaintiffs rather than the "token" plan previously offered by the school board. This plan also required bilingual education for English dominant Chicanos and Anglo students. The Aspira of New York, Inc v. Board of Education of the City of New York (1974) case resulted in a consent decree which imposed a detailed plan for bilingual education (focusing on Spanish speaking students) upon the school district. The consent decree, however, did not provide an implementation plan.

> The consent decree, however, applies only to those students who by reason of their English language deficiencies cannot effectively participate in the learning process, and who can more effectively participate in Spanish. Those Hispanic students whose Spanish abilities are equal to or worse than their English abilities do not fall within the class defined in the consent decree and are not offered the program under its mandate.

In the Rios v. Read (1977) case, the court ruled that a school district not only has the responsibility to implement an affirmative plan but also an appropriate plan to rectify the denial of educational rights to linguistically different students. Further, the court recognized the importance of quality bilingual programs for these students.

Court decisions have not always found in favor of bilingual instruction. As a remedy to rectify denial of educational rights of culturally different students, bilingual education was rejected in Keyes v. School District No. 1, Denver and in Otero v. Mesa County Valley School District No. 51. Keyes v. School District No. 1, Denver (1973) involved desegregation of the Denver, Colorado, school system. The plaintiffs argued for bilingual education based on the Cardenas-Cardenas Theory of Incompatibilities which proposes that because traditional mainstream education was developed for White, middle-class English speaking students, it is not appropriate for culturally and linguistically different children for reasons of poverty, culture, language, upward mobility and negative self-images of minority groups. The court rejected the inclusion of bilingual education in the district on the grounds that the Cardenas-Cardenas Theory would impose an undue additional burden on state and local efforts to deal appropriately with minority students.

A majority rejection of the plaintiff's rights to bilingual education came in Otero v. Mesa County Valley School District, No. 51 (1975). The plaintiffs were contending that the White, middle-class oriented school system was a major reason for poor academic performance of the Chicano students. The court, here, relying on the Keyes decision, ruled that the Cardenas plan was unacceptable and that the Chicano students' poor academic performance was due to socio-economic factors and not the educational program. Further, the court found that there was little evidence of English language deficiency on the part of the students.

School districts are, however, obligated by federal requirements to provide bilingual education to linguistically different students at the elementary level. These requirements for compliance with federal laws are found in the Lau Remedies, a set of guidelines developed by a Task Force in 1975 to assist OCR in determining compliance with the Lau decision of school districts which have linguistically different students. For groups of 20 or more students of a particular language background, a school district must provide one of several alternative educational approaches for opening instruction. ESL is endorsed for intermediate and secondary levels, but is rejected at the elementary level. Bilingual education is recommended as an acceptable alternative.

Although these guidelines do not have the force of law, since they have never been published in the Federal Register they have "weight as an agency interpretation." It is clear that school districts may not ignore the Lau Remedies, since they are valid and thus enforceable and have also been disseminated widely. Furthermore, holding the burden of proof to demonstrate that any particular set of educational strategies is more effective than bilingual education, a school district is even more constrained to resort to bilingual education for linguistically different students. As the OCR can directly intervene in a school district to press for compliance with the Lau Remedies, the Remedies do not have to be compatible with state laws.

LAU REMEDIES OUTLINED

Section 601 of the Civil Rights Act of 1964 states: "No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." Until May 25, 1970, this act was used primarily as a tool for eliminating discrimination against racial minorities. On that date, the Department of Health, Education and Welfare issued a memorandum informing school districts that compliance with Title VI of the Civil Rights Act required the provision of services to meet the special needs of national origin minority group children who are deficient in English language skills.

Premised on Title VI of the Civil Rights Act of 1964 and its regulations and guidelines, one of which is the May 25, 1970 memorandum, the United States Supreme Court unanimously held in LAU v. Nichols that federally-funded school districts must affirmatively provide to national origin minority students with English language disabilities, services which will secure for them equal access to the instructional program. LAU, a class action suit, stemmed from a situation in which approximately 1,800 Chinese students were effectively denied enjoyment of educational benefits provided by the San Francisco Unified School System. The plaintiffs (LAU) sought relief through judicial recourse.

The contentions of the plaintiffs were a violation of Title VI of the Civil Rights Act of 1964 and an abridgment of the Equal Protection Clause of the 14th Amendment. The lower court ruled in favor of the school system. However, upon reviewing the issues at hand in 1974, the U.S. Supreme Court reversed the lower court's stand on the basis that the California Educational Codes require proficiency in English before graduation; that all instruction be given in English; and that all students attend public schools until their 16th birthday.

It follows, the Supreme Court reasoned, that based upon the state imposition of these requirements that any student who could not understand English was "effectively foreclosed from any meaningful education."

In 1975, HEW issued a memorandum specifying remedies available to school districts for the elimination of past educational practices ruled unlawful under the LAU decision of 1974. Since the LAU Remedies were developed for a variety of school situations affecting some 15 million children in most of the 50 states, for ethnic groups speaking a variety of languages, and for school district enrollments ranging in size from dozens to thousands and constituting from 1% to 99% of the student population, it is understandable that there exists some confusion in the interpretation and implementation of the guidelines.

The general guidelines contained in this article are applicable to all comprehensive educational planning as it relates to LAU. Though not an official HEW interpretation of the LAU Remedies, these guidelines represent a simplified version that is practical and easily understood. A plan that fully addresses the points outlined should be readily acceptable for LAU compliance.

It is important to note that the LAU Remedies are minimal and relate directly to the narrowest legal interpretation of LAU vs. Nichols on the basis of current knowledge and trends relating to the education of children of limited English speaking ability (LESA). Thus, while a bilingual/bicultural program for all children in a particular area may be best from a pedagogical perspective, whether efficient administratively or not, it cannot be required from a legal perspective. Comprehensive educational planning to remove past inequities between groups of students is a major effort requiring a realistic assessment of available resources, including time, staff, money, space, and curriculum; followed by a systematic plan for redirection, adaptation and utilization of these resources to meet new objectives.

The initial phase of any LAU plan should be the development of a district philosophy as it relates to its limited English speaking students. This philosophy should be developed jointly by the administration, parents and staff. When this philosophy is acceptable to all involved, it becomes the district policy concerning LESA students and can be used or referred to for direction any time in the future.

I. IDENTIFY PRIMARY LANGUAGE

A. Identify those students whose primary home language is other than English. This can be accomplished through the use of a simple questionnaire including the following three questions:

1. Is a language other than English spoken in the home?

2. Was a language other than English first learned by the student?

3. Is a language other than English most often spoken by the student?

If the response to all three questions is "no", the student is not a target student and requires no further LAU treatment. If the response to any one of the three questions is "yes", the student is identified as a potential target student. Whether LAU treatment is required and the type of prescription is dependent of further language assessment.

B. Once the identification of the target group has been made, further language assessment ensues. At this point, it is required that the assessments are made by persons who can speak and understand the necessary language(s). These language assessors must be trained in the use of either a home language survey or a formal language dominance measure. After utilization of one of these language assessment methods with the target student group, the student is placed within one of the following categories:

A. Monolingual speaker of a language other than English.

B. Predominantly speaks a language other than English, though he knows some English.

C. Bilingual, i.e. has equal facility in English and some other language.

D. Predominantly speaks English, though he knows some other language.

E. Monolingual speaker of English.

In the event that the language determinations conflict (example: student speaks Spanish at home, but English with classmates at lunch), an additional method must be employed by the district to determine in which category the student belongs. This process is called cross-validation. In many instances, the district will use a test of language dominance as their third criterion. Two of three criteria will cross validate. The district must give assurance that a plan of continued language assessment for new and transferring students will be instituted.

II. DIAGNOSIS AND PRESCRIPTION

The second part of a plan must describe the diagnostic/prescriptive measures to be used to identify the nature and extent of each student's educational needs and then prescribe an educational program utilizing the most effective teaching style to satisfy the diagnosed educational needs. The prescriptive measures must serve to bring the linguistically/culturally different student(s) to the educational performance level that is expected by the Local Education Agency (LEA) and the State of nonminiority students. The diagnosis must include:

1. Review of both cognitive and affective domain in terms of teaching style and motivational styles.
2. Diagnosis of problems related to areas or subjects required of other students in the school plan.

III. SELECT EDUCATIONAL PROGRAM SUITABLE TO STUDENT NEEDS

The following program options are available to each district when appropriate:

a. Monolingual Non-English Speakers

1. Elementary and intermediate levels - one or a combination of the following:
    - a. Transitional Bilingual Education Program (TBE).
    - b. Bilingual/Bicultural Program.
    - c. Multilingual/Multicultural Program,

    English as a Second Language (ESL) is not appropriate.
2. Secondary level:
    - a. Option 1. Native language instruction in subject matter and ESL Program.
    - b. Option 2. Required and elective subject matter in the native language(s) and bridge into English while combining English with native language as appropriate.
    - c. Option 3. ESL or High Intensive Language Training (HILT) in English until they are fully functional in English, then bridge into the school program for all other students.

d. TBE, Bilingual/Bicultural, or Multilingual/Multicultural program in lieu of above options if compensatory education in the native language is provided.

B. Predominant Speaker of a Language Other Than English

1. Elementary--any one or a combination of the following:

a. TBE.

b. Bilingual/Bicultural Program.

c. Multilingual/Multicultural Program.

ESL is not appropriate.

2. Intermediate and high school levels:

a. The district must provide data relative to the student's academic achievement and identify those students who have been in the school system for less than one year.

1. If student(s) who have been in the system for less than one year are achieving at grade level or better, the district is not required to provide additional educational programs.

2. If students have been in system a year or more or are underachieving, the district must submit plan to remedy the situation.

a. Remedy may include smaller class size, enrichent materials, etc.

b. Remedy must include any one or a combination of ESL, TBE, Bilingual/Bicultural program or Multilingual/Multicultural program.

3. Such students may not be placed in situations where all instruction is conducted in the native language as may be prescribed for the monolingual speaker of a language other than English, if the necessary prequisite skills in the native language have not been taught. In this case some form of compensatory education in the native language must be provided.

C. Bilingual Speaker

1. The district must provide data relative to the students academic achievement.

a. For those who are underachieving

1. treatment corresponds to regular program requirements for underachieving students regardless of language background.

2. prescription is the same for elementary, intermediate, and secondary.

b. For those bilingual students achieving at grade level or better there are no required educational programs.

D. Predominant speaker of English. Treatment is the same as for bilingual students outlined above.

E. Monolingual speaker of English. Treatment is the same as for bilingual students outlined above.

NOTE: For the purpose of the LAU Remedies, underachievement is defined as performance in each subject area (e.g. reading, problem solving) at one or more standard deviation below-district-norms for nonethnic/racial miniroty students.

Beyond the process of identification, assessment, categorization, and placement of students according to their language ability, the LAU Remedies call for certain assurances from the district. These assurances and additional requirements are outlined below.

IV. REQUIRED AND ELECTIVE COURSES

A. A District must show that required and elective courses are not designed to have discriminatory effect.

1. Required courses must not exclude pertinent minority developments (i.e. American History).

2. If elective courses are found to be racially/ethnically identifiable, the district must:

   a. Educationally justify the identifiability of such courses, or

   b. eliminate them, or

   c. guarantee that such courses would not remain identifiable.

3. Schools must develop strong incentive for minority enrollment in electives not traditionally enrolled in.

B. LAU category students must not be placed in Special Education classes as a specific remedy.

V. INSTRUCTIONAL PERSONNEL REQUIREMENTS

A. Personnel must be linguistically/culturally familiar with the background of students to be affected. It has been suggested that the teacher make-up ethnically match the student make-up. More emphasis will be placed on this in the future.

B. Student/teacher ratio for programs should be equal or less than district norm.

C. Instructional personnel should be assessed to determine who has the necessary qualifications and skills relevant to LAU category students.

D. If current staffing is inadequate to implement program, in-service training is required as an immediate and temporary response. Plans for this training must include:

1. Training objectives.
2. Methods for achieving objectives.
3. Methods for selecting teachers to receive training.
4. Names of trainers and location of training.
5. Content of training.
6. Evaluation design.
7. Proposed timetables.

E. Districts may employ paraprofessionals with necessary language(s) and cultural background. Specific instructional roles of such personnel must be included in the plan. They must not be restricted to such activities unrelated to the teaching process such as roll taking, etc.

F. Districts must include a plan for securing the number of qualified teachers necessary to fully implement the instructional program.

VI. RACIAL/ETHNIC ISOLATION AND/OR IDENTIFIABILITY

A. Racially/ethnically identifiable classrooms may not be created to respond to student language characteristics.

VII. NOTIFICATION TO PARENTS

A. All notices to parents must be provided in all identified languages.

B. The district must inform all minority and nonminority parents of all aspects of the programs designed for students of limited English speaking ability.

VIII. EVALUATION

A. A "Process and Product" evaluation is to be submitted in the plan. It must include:

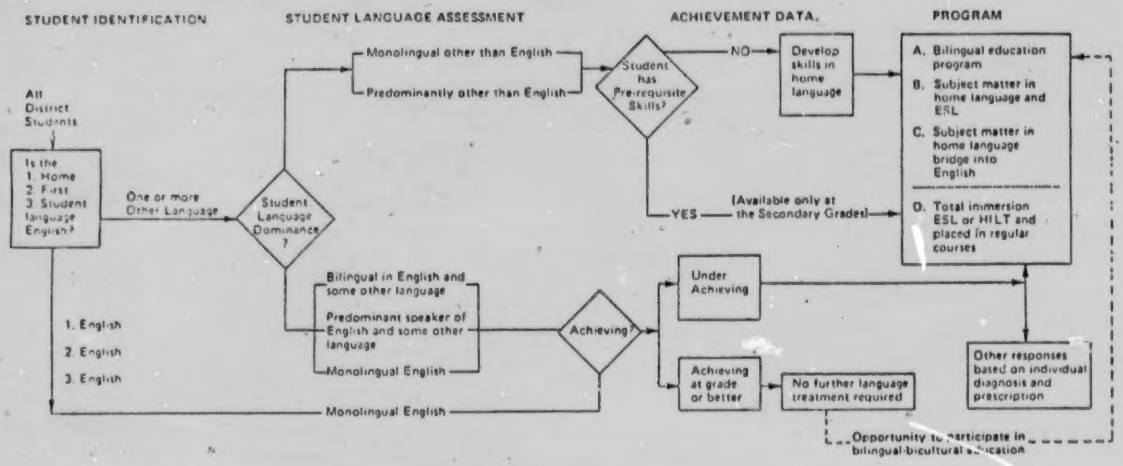
1. Evaluation plan.

2. Time lines.

B. For the first three years following implementation of a plan, the district must submit a "Progress Report" to the Regional Office of Civil Rights at the close of 60 days after start of school. Another "Progress Report" is due at the close of 30 days after the last day of the school year in question.

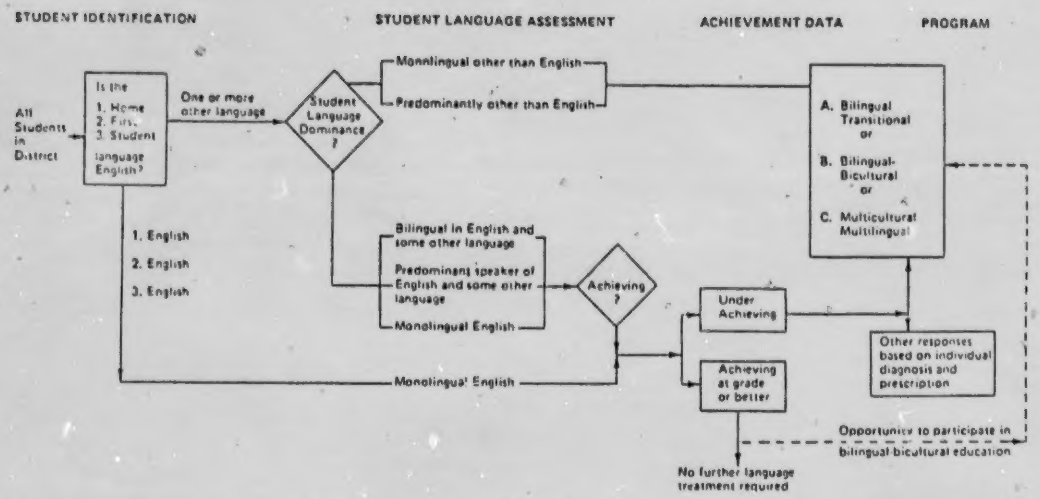
MINIMAL LAU REMEDIES

Secondary Grades


STUDENT IDENTIFICATION
STUDENT LANGUAGE ASSESSMENT
ACHIEVEMENT DATA
PROGRAM
All District Students
Is the 1. Home 2. First 3. Student language English?
One or more Other Language
Student Language Dominance ?
Monolingual other than English
Predominantly other than English
Student has Pre-requisite Skills?
NO
Develop skills in home language
A. Bilingual education program
B. Subject matter in home language and ESL
C. Subject matter in home language bridge into English
D. Total immersion ESL or HILT and placed in regular courses
YES
(Available only at the Secondary Grades)
Bilingual in English and some other language
Predominant speaker of English and some other language
Monolingual English
Achieving?
Under Achieving
Achieving at grade or better
No further language treatment required
Other responses based on individual diagnosis and prescription
Opportunity to participate in bilingual-bicultural education
1. English
2. English
3. English
Monolingual English

MINIMAL LAU REMEDIES*

Elementary and Intermediate Grades


STUDENT IDENTIFICATION
STUDENT LANGUAGE ASSESSMENT
ACHIEVEMENT DATA
PROGRAM
All Students in District
Is the 1. Home 2. First 3. Student language English?
One or more other language
Student Language Dominance ?
Monolingual other than English
Predominantly other than English
1. English
2. English
3. English
Bilingual in English and some other language
Predominant speaker of English and some other language
Monolingual English
Achieving ?
Monolingual English
Under Achieving
Achieving at grade or better
No further language treatment required
A. Bilingual Transitional or
B. Bilingual-Bicultural or
C. Multicultural Multilingual
Other responses based on individual diagnosis and prescription
Opportunity to participate in bilingual-bicultural education

*Adapted from a diagram developed by the Area D Lau General Assistance Center

What do School Districts need to do to comply with the Lau Task Force Remedies?

The Task Force Remedies outline in detail the steps which a district must take in order to adequately serve linguistically different students. The main points of each process are summarized below.

A district must, in order to comply with Title VI regulations under Lau, define and implement a student language identification process and assess his cognitive skills in that language. The student language identification must be made by persons who can speak and understand the necessary language (s).

A student is identified as speaking a language other than English if:

A. The student's first acquired language is other than English.

B. The language most often spoken by the student is other than English.

C. The language most often spoken in the student's home is other than English, regardless of the language spoken by the student.

District staff should develop a survey in the dominant language of the parents that asks the parent to identify the home language, the first language learned by the child and the language preferred and used in the home by the child. A letter should accompany the survey form to explain why the information is needed and how it will be used. The Center for Cross Cultural Education recommends that survey forms be sent to the homes of all students. Parents not responding should be contacted by telephone or in person by a person who is able to communicate fluently in the languages of the community and is sensitive to the culture of those to be interviewed.

In addition to the results of the survey and/or home contact to identify the home language of each student, the district must identify the comfortable language of each student. This identification of the comfortable language should be done by two or more persons who are linguistically and culturally familiar with the language of the student. The comfortable language should be identified in informal situations, such as the playground, neighborhood, peer group interactions within the classroom and outside of the classroom, at lunch and other informal situations. Observers must estimate the frequency of use of each language spoken by the student in these situations.

The home survey and informal observation should cross validate one another. That is, if the home language is not English, then the informal language or comfortable language preferred by the student will probably not be English.

Teacher judgment alone is not sufficient to determine home language or comfortable language of the student. If used, teacher judgment should be used in conjunction with the previously mentioned steps. Often teachers are not fluent in the language used by the student. In addition, nonEnglish speaking students often associate the teacher and the classroom with English which might encourage the use of English rather than the student's comfortable language.

Once the student's language has been identified, the district must assess the degree of linguistic function or ability of the student through the use of a langauge assessment instrument. If the student is functional in more than one language, such assessment must be made in all the necessary languages.

Upon determination of the degree of linguistic function or ability of the student in all language areas, the district must then determine the cognitive level of each student in the basic skills of reading, language arts, mathematics, and other areas of the core-curriculum of the school. The assessment of cognitive skills must be determined through the use of the student's dominant language and the second language.

A profile of each student's achievement level his/her abilities in the home language as well as his/her abilities in English will then be considered in conjunction with other student characteristics, such as affective needs, learning styles, student interests, and grade level. The district then can prescribe an educational program utilizing the most effective teaching style, materials, and learning activities to satisfy the diagnosed educational needs.

In order to adequately serve all students with special language needs in the district, schools must be aware of the many different types of entering language behaviors. The following illustrates some of the possible entering language behaviors and identifies those students who must be served under Title VI regulations:

1. Monolingual Other Language
    a. Achieving in other language, Nonachieving in English

   - b. Nonachieving in other language
2. Limited English
   - a. Achieving in other language, Nonachieving in English
   - b. Nonachieving in either language
3. Bilingual Other Language Dominant
   - a. Achieving in other language, Achieving in English
   - b. Achieving in other language, Nonachieving in English
4. Bilingual English Dominant
   - a. Achieving in English, Achieving in other language
   - b. Nonachieving in English, Nonachieving in other language
5. Limited other language
   - a. Achieving in English language
   - b. Nonachieving in either language
6. Monolingual English
   - a. Achieving in English
   - b. Nonachieving in English language

In prescribing educational programs, the Center for Cross Cultural Education is suggesting that each district include district staff, limited English-speaking and nonEnglish-speaking parents, community members, and students when possible, to develop a district master plan for serving limited English-speaking and nonEnglish-speaking students, and all other students. The concept of a master educational plan should consider all areas of district services and student needs and would provide for a comprehensive sequential approach for compliance with Title VI regulations.

Finally, the district must implement the appropriate type(s) of educational program(s) that have been identified as best satisfying the cognitive, affective and linguistic needs of each student.

OVERVIEW OF THE SEVEN TECHNICAL ASSISTANCE PHASES

A. Introduction

The Title VI Lau Steering Committee is an integral part of the seven Phase Technical Assistance process recommended by the Lau Center to school districts in the development of an educational master plan to meet Title VI regulations.

The seven phases will provide school districts with a comprehensive approach toward developing an educational master plan to meet the needs of limited and nonEnglish-speaking students. In order to grasp the proper context and framework of the Title VI Lau Steering Committee within the technical assistance process, this section includes the assumptions and overview of the seven technical assistance phases.

B. Assumptions

The Lau Center makes the following assumptions upon which the seven phases are based:

1. School districts are committed to developing an educational master plan to meet the educational needs of linguistically different students.
2. The development of an educational master plan reflects the input of community people, school district personnel, students, and personnel from a college of education.
3. The implementation of an educational master plan promotes the active participation of the respective linguistically different community.

4. The conceptual framework of an educational master plan will complement and reflect the notion of cultural pluralism.

5. The local school district personnel will have primary responsibility for the implementation of the educational master plan.

C. Description of the Sevel Phase Technical Assistance Process

The seven phases outlined are interrelated and interdependent, each phase requiring specific resources, activities and personnel.

Phase I: Orientation to Center for Cross Cultural Education Capabilities and to Title VI Regulations

Purpose: To present and discuss the school districts expectations of Lau Center technical assistance, and to make school districts aware of the Center for Cross Cultural Education's process for assisting in the development of an educational master plan to comply with Title VI regulations. Phase I, orientation, includes:

1. Overviewing CCCE's Community, Home, Cultural Awareness and Language Training (C[illegible]CALT) Process.

2. Reviewing the Institute's areas of educational service and technical assistance capability.

3. Reviewing the functions and services of the Lau Center.

4. Communicating mutual expectations in the delivery of technical assistance.

Phase II: Organization of a School District Committee to Develop an Educational Master Plan to Comply with Title VI Regulations

Purpose: To involve a representative group of people from the school district and from the community in the design, development, and implementation of an educational master plan to comply with Title VI regulations. Phase II, organization of a school district committee, includes:

1. Securing a commitment from the school district to form and involve a representative group of people from the community, the staff and the student body in the activities of the Title VI Steering Committee,
2. Establishing a process to select and guide the Title VI Steering Committee,
3. Organizing a community relations workshop on the functions and development of a Title VI Steering Committee,
4. Selecting and operating a Title VI Steering Committee composed of parents and/or community representatives, school district personnel, students, university personnel and board members, and
5. Planning activities to implement a Title VI needs assessment and a plan to comply with Title VI regulations.

Phase III: Implementation of a Title VI Needs Assessment

Purpose: To identify the school district's specific educational needs in order to comply with Title VI regulations and to identify student characteristics (especially oral language skills of limited and non-English-speaking students), potential instructional and curriculum needs, staff training needs, community relations needs, counseling and guidance needs and administrative needs. Phase III, needs assessment, includes:

1. Identifying student characteristics, in reference to language dominance and proficiency in first and second language achievement and sociocultural background.
2. Setting goals to achieve compliance, as based on the Task Force Remedies.
3. Identifying and selecting instruments to be used in collecting data,
4. Implementing a needs assessment instrument in the respective school community,
5. Collecting data,
6. Analyzing data,
7. Identifying school district characteristics,
8. Reconciling student characteristics and school district characteristics, and
9. Reporting findings and delineating recommendations for the development of an educational master plan.

Phase IV: Development of an Educational Master Plan to Comply with Title VI Regulations

Purpose: To develop a comprehensive educational master plan that recognizes cultural, racial, and linguistic differences as an integral and positive aspect of American society, while providing viable teaching designs, instructional programs, and multicultural curricula for teaching limited English-speaking students as well as English-speaking students. Phase IV, the development of an educational master plan, includes:

1. Planning the logistical framework of the educational master plan,
2. Specifying educational and institutional objectives for bilingual/multicultural education which can be measured,
3. Developing strategies for achieving stated objectives:
   a. Designing instructional programs to meet the needs of limited English-speaking students,
   b. Designing staff pre-service and inservice training programs, and affirmative action goals,
   c. Designing the criteria for selecting, developing, field testing, and adapting curriculum materials,
   d. Designing and planning community relations programs,
   e. Determining the need and direction for administrative reorganization,
   f. Determining the counseling, testing, and guidance needs of the limited and nonEnglish-speaking students, and
   g. Designing a fiscal and management system to implement an educational master plan.

Phase V: Development of Time-Line and Management Plan to Implement the School District Educational Master Plan

Purpose: To 1) systematically plan the unfolding of activities and implementation of educational and institutional objectives for bilingual/multicultural education specified in the school district educational plan, and 2) to designate the person(s) responsible for each activity and the resources needed to accomplish each activity. Phase V, development of time-line and management plan includes:

1. Developing management information and discrepancy analysis procedures for the implementation of the educational master plan,
2. Specifying personnel and resources to be involved in the implementation of the master plan,
3. Specifying persons responsible for implementing activities, making decisions, and monitoring the progress of the educational master plan.
4. Specifying dates for initial and ongoing activities and for the implementation/completion of the master plan.

Phase VI: Implementation of Educational Master Plan

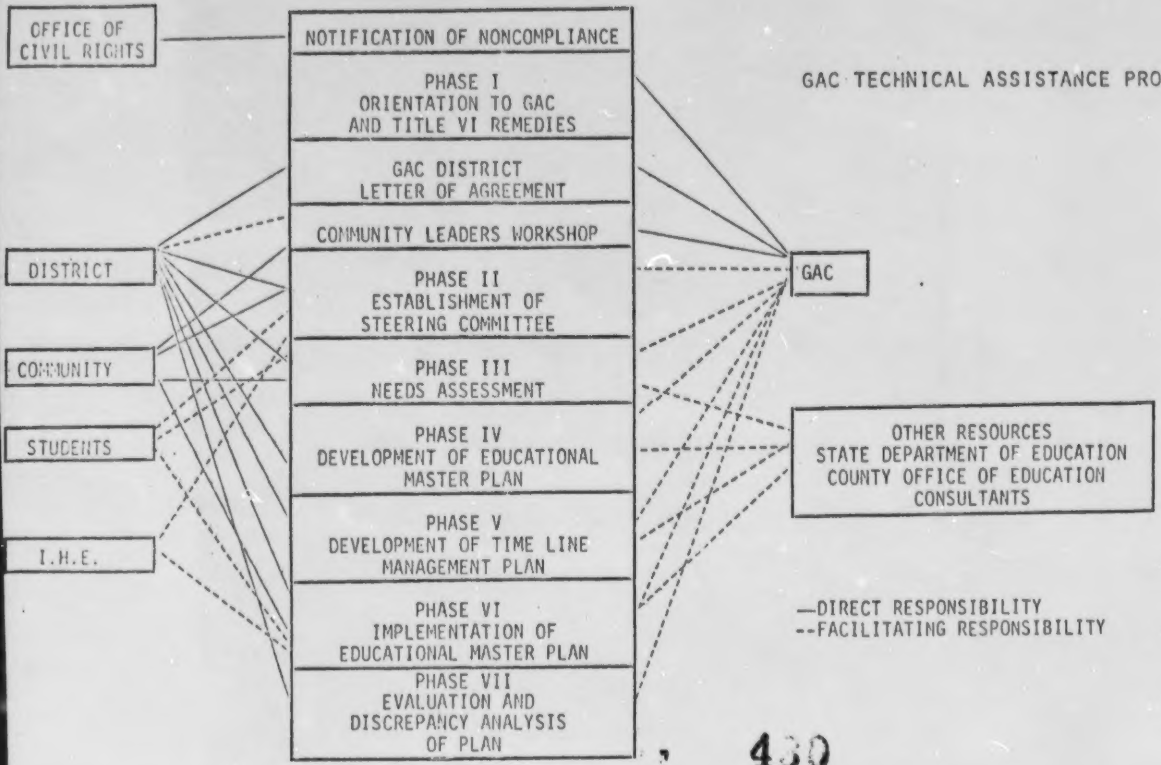
Purpose: Phase VI, implementation of the master plan, includes:

1. Implementing a master plan management information system and discrepancy analysis process,
2. Implementing educational master plan activities:
   a. Developing and implementing instructional programs to meet the needs of limited English-speaking students,
   b. Developing and implementing staff training and inservice programs,
   c. Selecting, developing, field testing, and adapting curriculum materials,
   d. Implementing a community relations program,
   e. Developing and implementing administrative organization to meet the needs of limited English-speaking students.
   f. Implementing a management system.
3. Determining further technical assistance required to implement the educational master plan.

D. Time-Line for Delivery of Technical Services by the LAU Center

An essential consideration for meeting Title VI compliance is the degree of commitment by the school district to develop and implement a comprehensive educational master plan. The LAU Center, in its outline of technical assistance phases, will work with a school district in the development of an educarional plan that will meet the needs of linguistically differenc students.

GAC TECHNICAL ASSISTANCE PROCESS


OFFICE OF CIVIL RIGHTS
NOTIFICATION OF NONCOMPLIANCE
PHASE I ORIENTATION TO GAC AND TITLE VI REMEDIES
GAC DISTRICT LETTER OF AGREEMENT
COMMUNITY LEADERS WORKSHOP
PHASE II ESTABLISHMENT OF STEERING COMMITTEE
PHASE III NEEDS ASSESSMENT
PHASE IV DEVELOPMENT OF EDUCATIONAL MASTER PLAN
PHASE V DEVELOPMENT OF TIME LINE MANAGEMENT PLAN
PHASE VI IMPLEMENTATION OF EDUCATIONAL MASTER PLAN
PHASE VII EVALUATION AND DISCREPANCY ANALYSIS OF PLAN
DISTRICT
COMMUNITY
STUDENTS
I.H.E.
GAC
OTHER RESOURCES STATE DEPARTMENT OF EDUCATION COUNTY OFFICE OF EDUCATION CONSULTANTS

—DIRECT RESPONSIBILITY
--FACILITATING RESPONSIBILITY

Mr. Dupris. Again, there is no providing of assistance of any sort as yet related to developing these centers of that format.

Let me once again say that we are committed to working on and implementing Public Law 95-561, so that Indian children receive the best education possible. But we have come up against blockage after blockage, by both the Office of Education and the Bureau, in their processes and techniques.

This is not to say that there are not committed people in both OIE and the Bureau. But the process and the actual intent of that commitment does not show through, when the end result turns out to be noninvolvement or decisionmaking without consultation or statements like "I have no excuses." There is no way to deal with that. There is no way to impact on that. There is no way to forgive it.

And so our only resource is in fact to hope that the committee in its oversight function will really do something with the Office of Education, particularly because they are further behind and are not involved with the Indian people than the Bureau. But the Bureau is involved with Indian people, but cannot produce the results that they are trying so hard to produce.

The integrity of the process has been breached. And that is what we must strive for, the integrity of the process, and a true and meaningful involvement.

I will also submit for the record some other data related to the rules and regulations. But I can wait for a later time so that the other members of the panel may have something to say relating to this. And hopefully in discussion we will be able to pick up some other items.

[The written statement and accompanying documents follow:]

STATEMENT OF THE
COALTION OF INDIAN CONTROLLED SCHOOL BOARDS, INC.
TO THE
ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION SUB-COMMITTEE
OF THE COMMITTEE ON EDUCATION AND LABOR

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES

WITH RESPECT TO
TITLE XI - P.L. 95-561

June 15, 1979

SUBMITTED ON BEHALF OF THE COALITION
OF INDIAN CONTROLLED SCHOOL BOARDS, INC.

By: Joe Dupris, Executive Director
C.I.C.S.B., Inc.

INTRODUCTION AND HISTORY OF THE COALITION

The Coalition of Indian Controlled School Boards, Inc. is a national, non-profit organization for educational research, training and development to improve the education of Indian people. The purpose and concerns of the Coalition centers around the processes and institutions of education in their relationship to Indian communities and grassroots people. The Coalition assists in the planning and development to [illegible] and to maximize the benefits of educational programs in schools serving Indian students. Because of these thoughts, the Coalition provides legal, technical and community development assistance for Indian groups which are designed to meet the needs of local Indian communities in teacher training, proposal writing, educational planning and curriculum development. Other services provided by the Coalition concerns training in the development of Indian school boards, education committees and organizations which in turn causes them to become self-sufficient in dealing with government structures.

A central philosophy of the Coalition is that control of one's own educational system is vital to the development and survival of American Indians. American Indians must have self-determination within the area of education in order to develop the means of breaking the cycle of poverty and discrimination.

PURPOSE OF PRESENTATION

The Coalition of Indian Controlled School Boards, Inc., is offering this testimony today on P.L. 95-561, Title XI. The focus of the testimony will be on the programs towards the implementation of this new legislation by the Office of Education and the Bureau of Indian Affairs. The beginnings of any new legislation will provide the direction and depth of the possible impacts of that new legisltion, and the rules and regulations developed by the administering agencies are the embodiment of the Congressional intent. Therefore, we believe that Indian tribes, Indian organizations, and Indian people must be provided the greatest and widest opportunity possible to help formulate the rules and regulations of P.L. 95-561, Title XI.

In theory, most citizens believe that the effectiveness of a law is dependent to a great extent on the contents and wording of the law enacted. This may be true to a certain degree but to a degree much less that is generally realized.

We who have been involved in Indian Education for any length of time have come to realize that almost the opposite is true, and that is, that any legislation is only good as its implementation. We have come to realize this through experience Indians have had with the various regulatory agencies whose primary responsibility is to implement Indian Education laws. We have been what appears on the surface to be good laws, such as the Indian self-determination and Education Assistance Act, almost completely emasculated by 67 pages of rules and regulations to the extent that if effectively circumvents the legislative intent of the Act. We also realize that any legislation enacted by Congress can just as well be strengthened by the regulatory agency's rules and regulations. However, in the case of Indian legislation we have seen the law consistently watered down and weakened to the extent that it is practically non-functional on the implementation level as far as Indians are concerned. We have yet to see Indian legislation strengthened by rules and regulations so that it benefits Indian in accordance with the original intent and design of the law.

THE CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

On January 4, 1975, the 93rd Congress in their wisdom enacted P.L. 93-638, the "Indian Self Determination and Education Assistance Act."

Section 2 of the (CONGRESSIONAL FINDINGS) of this law states:

> SEC. 2 (a) "The Congress, after careful review of the Federal Government's historical and special legal relationship with, and resulting responsibilities to, American Indian people, finds that
>
> (1) the prolonged Federal domonination of Indian service programs has served to retard rather than enhance the progress of Indian people and their communities by depriving Indians of the full opportunity to develop leadership skills crucial to the realization of self government, and has denied to the Indian people an effective voice in the planning and implementation of programs for the benefit of Indians which are responsive to the true needs of Indian communities; and"

Section 3 of the (CONGRESSIONAL DECLARATION OF POLICY) states:

> SEC. 3 (a) "The Congress hereby recognizes the obligation of the United States to respond to the strong expression of the Indian people for self-determination by assuring maximum Indian participation in the direction of educational as well as other Federal services to Indian communities so as to render such services more responsive to the needs and desires of those communities."
>
> (b) "The Congress declares its commitment to the maintenance of the Federal Government's unique and continuing relationship with and responsibility to Indian people through the establishment of a meaningful Indian self determination policy which will permit an orderly transition from Federal domination of programs for and services to Indians to effective and meaningful participation by the Indian people in planning, conduct, and administration of those programs and services."

The Congressional Findings and Declaration of Policy in 1975 as quoted above is very clear. Congress found that the Federal Government has a historical and special legal relationship to American Indian people and had denied us the full opportunity in the planning and implementation of Indian programs.

THE IMPLEMENTATION OF CONGRESSIONAL INTENT

Within Part B of P.L. 95-561, Title XI, the Congress once again expressed a clear policy for the Executive departments of the U.S. Government by stating that:

> Sec.1130. It shall be the policy of the Bureau, in carrying out the functions of the Bureau, to facilitate Indian control of Indian affairs in all maters relating to education.

This committment of the Congress to Indian control of Indian education was also refered to in Part A of P.L. 95-561. The amendment to P.L. 874 provided a dispute resolution process for Indian parents and Indian tribes who believe a public school system has not provided for appropriate equal educational opportunities for their Indian childern.

The combined Congressional intent as cited above in both Congressional findings and recent legislation, impact and obligate both the Bureau of Indian Affairs and the Office of Education. However, after approximately eight months of preparation by both the Bureau of Indian Affairs and the Office of Education for the implementation of P.L. 95-561, both Executive agencies have failed to properly consult Indian tribes and Indian people. Two styles of involvement have been exhibited. The "stonewall" technique of the U.S. Office of Education does not provide for any meaningful involvement of Indian tribes and Indian people, and the "participation" technique of the Bureau of Indian Affairs provides the appearance of meaningful involvement. The result of both techniques, as techniques, result in blocking Indian tribes and Indian peoples attempts to be self-determinate in educating their Indian childern. The method of both techniques of input involves at the critical decision-making points "closed door secret meetings" to decide the outcome of any situation.

Whether by design or accident, the results of these techniques are the same - the frustration of Self-Determination!

Appendix A is a supposedly "confidential" document developed by the Office of Indian Education in the United States Department of Education. This document was it seems developed without any meaningful involvement or consultation with Indian tribes and/or Indian communities. This information was also provided to the U.S. Congress in the form of a request for appropriations for 1980, but this same information is "confidential" when Indian tribes and Indian organizations were invited to testify in Reno not more than two weeks ago.

The Office of Education administers Public Law 874 funds which was amended by P.L. 95-561. This Office has not however considered the impact of those amendments and the requirements placed on that Office to administer and monitor compliance of public school systems. Rules and regulations are still in the process of preparation, and if published in the near future, the rules and regulations will not contain definitive language nor control language for the enforcement of equal educational opportunities for Indian childern in schools recieving 874 funds.

The Bureau of Indian Affairs has made an effort to provide for input for the Indian tribes and Indian people through the mechanism of task forces, howver, this procedure does not insure meaningful decision-making. An example of the decision-making that has occured which frustrates the intent of Self-Determination is that of Task Force Three - Educational and Living Standards. This Task Force appeared before this committee approximately four weeks ago, and at that time, both members of the task force and the Bureau made committments to quality educational and living standards. One of the methods to insure quality standards was to obtain quality information and data for review by the task force. Four requests for proposals were to be developed and let for the obtaining of this quality information and data, and these RFPs were to be processed quickly and moneys found to pay for this service. As of this week, the four RFPs have been canceled unilaterlly by the Bureau. These four RFPs are only one example of the frustration of intent of Self-Determination. Other task forces may not have experienced this technique of "participation", however the critical nature of educational standards and living standards should not recieve this type of treatment by a Bureau charged with facilitating "Indian control of Indian affairs in all matters relating to education.

The excuses for the utilization of techniques to excude meaningful Indian tribal and Indian peoples input are many. Some of the favorites this year are "a lack of money", "a lack of time", and "no excuses". The result of the refusal to implement the intent of Self-Determination in both the Office of Education and in portions of the Bureau of Indian Affairs is the destruction of the quality education that is the right of every Indian child in the United States.

CONCULUSION

We ask the sub-committee to exercise its oversight function to insure that both the Office of Education and the Bureau of Indian Affairs properly implement P.L. 95-561 and that both Executive agencies be required to follow the mandates and intent of Congress in carrying out their functions to facilitate Indian control of Indian education. We would also ask to be permitted to extend our remarks and provide additional information to the committee at a later date. The time provided to testify is we know limited, but if at all possible, we would urge the subcommittee to hold further hearings for the Indian tribes and Indian organizations.

We have included two additional appencicies for the review of the committee both of the additions are court orders which have been issued against the U.S. Office of Education and both of which refers to the status of Indian education within the U.S. Office of Education.

We thank the Committee for the invitation to present our views and the time and attention given to these vital concerns of Indian tribes and Indian people for their childern.

Appendix A

Resource & Evaluation Centers
Office of Indian Education

Report Submitted to the
Senate and House Appropriations
Subcommittees on the Interior
February 1979

DEPARTMENT OF HEALTH EDUCATION AND WELFARE
USA

OFFICE OF EDUCATION

INDIAN EDUCATION

I. INTRODUCTION

A. Authorization

The Indian Education Act (P.L. 92-318, Title IV) is now in its sixth year of operation. The Act represents Congressional recognition of the special educational and culturally related academic needs of American Indians and Alaskan Natives. The Commissioner of Education is authorized to carry out a wide variety of programs including supplementary education services; planning, pilot and demonstration projects; and adult education and educational personnel training projects.

A new authorization has been added to the Act by the Education Amendments of 1978 (Sec. 1150) to establish, on a regional basis, information centers to --

> "(A) evaluate programs assisted under this part, under the Indian Elementary and Secondary School Assistance Act, under section 314 of the Adult Education Act, and other Indian education programs in order to determine their effectiveness in meeting the special educational and culturally related academic needs of Indian children and to conduct research to determine those needs;
>
> "(B) provide technical assistance upon request to local educational agencies and Indian tribes, Indian organizations, Indian institutions, and parent committees created pursuant to section 305(b)(2)(B)(ii) of the Indian Elementary and Secondary School Assistance Act in evaluating and carrying out programs assisted under this part, under such Act, and under section 314 of the Adult Education Act through the provision of materials and personnel resources; and
>
> "(C) disseminate information upon request to the parties described in subparagraph (B) concerning all Federal education programs which affect the education of Indian children including information on successful models and programs designed to meet the special educational needs of Indian children.
>
> "(2) Grants or contracts made pursuant to this subsection may be made for a term not to exceed three years (renewable at the end of that period subject to the approval of the Commissioner) provided that provision is made to insure annual review of the projects."

The purpose of this report is to document the feasibility and need for establishing on a regional basis resource and evaluation (information) centers. As required by the Conference Report accompanying the 1979 appropriation, this report also examines whether technical support and dissemination activities can be provided to Indian education grantees through current Departmental regional offices.

B. Indian Education Programs

In 1978, the Office of Indian Education funded through its Part A entitlement program 1,101 local educational agencies in 42 states to provide supplementary programs to meet the special educational needs of approximately 325,000 Indian students. Through its discretionary grants programs under the Part A Non-LEA, B, and C authorities, the Office of Indian Education funded 146 projects that impact an additional 80,000 Indian children and directly serve an estimated 13,200 Indian adults.

II. RESOURCE AND EVALUATION CENTERS

A. Need

During the course of implementation of the Indian Education Act, the Office of Indian Education has encountered some recurring problems throughout the projects.

(1) Required objective evaluations of local projects are often too perfunctory, providing little substantive data about program effectiveness to use in improving project performance and judging impact.

(2) Many Indian education grantees are inexperienced at managing programs and require guidance and direction. Project directors are requesting more assistance with program development and project management than can be provided by an Office of Indian Education staff of limited numbers. In addition, many Indian parent committees have not been able to effectively impact the planning and administration of the projects due to lack of information and experience.

(3) The quality of program activities varies widely. Although each project conducts an educational needs assessment, in some cases, project activities do not focus on local needs. In other projects, activities are inappropriate for accomplishing project objectives or could be substantially improved in this respect.

(4) There is no systematic collection, analysis or dissemination of information on the Indian education projects. Consequently, information on successful practices and approaches is difficult for project directors to locate because of the multiplicity of sources for such information. A variety of other OE programs have information systems, but their products require screening to determine relevance to Indian students' needs.

(5) In addition to providing programs to meet the special educational needs of Indian students, the Education Amendments of 1978 added a provision to allow for programs to meet the culturally-related academic needs of Indian students as well. This amendment is of importance especially in areas where the Indian child may be far removed from

> his/her tribal heritage or where the proportion of Indian students to a school's total student body is small. This new provision reaffirms the original Congressional intent of the Act to provide that where appropriate, the culturally-related academic needs of Indian students should be met. Although its inclusion does not diminish the importance of providing sound and effective basic education instruction for Indian students through Part A entitlements, there may be a need for additional technical assistance and evaluation activities that relate to this new provision.

The problems encountered in Indian education projects are interdependent. In order to improve programmatically, evaluation data are needed to identify project weaknesses, while information on successful practices in other programs and projects would help improve areas identified by evaluation. Furthermore, if the Indian education programs are to grow in effectiveness, evaluations must be produced that describe the outstanding projects so that they may serve as future models.

The 1977 GAO Report, Indian Education in the Public School System Needs More Direction From the Congress discussed the necessity to improve project evaluations and outlined the "inadequate monitoring of grant activities."

B. OIE Technical Assistance Projects

The Office of Education became increasingly aware of the problems that Indian education grantees were experiencing, but was not able to anticipate significant growth in staffing to provide the services needed. In order to begin to address these problems, five small technical assistance and dissemination projects were funded by OIE to work with selected Indian education grantees in FY 1978. These five projects, which are limited, pilot efforts, have continued in FY 1979 with each covering only one state or small regional area.

The activities these technical assistance projects engage in include: conducting training workshops for Indian communities and Indian parent committees; providing technical assistance and disseminating information to Indian education parent committees; and conducting clearinghouse activities such as monitoring the Federal Register and other Federal and non-Federal publications for information on new education programs of interest to Indian communities.

These five projects have been received enthusiastically by the Indian education grantees and potential applicants they have served. Each project has focused on slightly different problems or target groups, although a primary function of most has been the training of Indian education parent committees. A major limitation of these technical assistance projects is, however, that their small scope precludes them from providing evaluation assistance for Indian education programs.

The authority to continue funding of OIE technical assistance projects has been repealed and replaced by Section 1150 of the Education Amendments of 1978, which, as mentioned earlier, authorizes the establishment of the regionally based resource and evaluation centers.

C. Center System Operation

The fundamental rationale for the establishment of resource and evaluation centers is to improve qualitatively the total spectrum of Indian Education Act programs by providing specialized educational services to Indian education grantees, Indian tribes, Indian organizations, Indian institutions and Indian parent committees. More specifically, these centers will focus their efforts on:

(1) evaluating programs and individual projects to determine their effectiveness in meeting the special educational and culturally-related academic needs of Indian students;

(2) assisting grantees in developing more measurable Indian education project objectives, developing better project designs and developing better program evaluations;

(3) providing grantees with technical advice and information that will strengthen their management capabilities and project services;

(4) assist in the replication and dissemination of educational practices of proven effectiveness to other Indian educational grantees and potential applicants; and

(5) function as a broker between the specific needs of Indian education projects and the variety of information and resources that are available.

No systematic approach exists in providing such needed education services for Indian education grantees, nor has there been any real emphasis on extensive education planning at the project level or on the validation and continued renewal of project activities of proven effectiveness. To a large extent, the centers will be addressing the need to match resources with needs and to find ways to disseminate validated practices and educational products. More specific activities of the centers related to the functions, as previously described, are discussed below.

D. Center Functions and Activities

Functions	Activities
(1) Technical Assistance	o Project site visits conducted to give specialized guidance in developing/selecting evaluation designs consistent with the educational program of the grantee and in meeting acceptable technical standards. Attention focused on the use of appropriate evaluation methods and models. Projects will also be assisted in developing evaluation reporting skills. Referral to consultants or other project sites with successful evaluations in special areas of concern. Review of proposed evaluation designs to assure they meet both local project and Federal level needs for evaluation data.
	o Workshops in project management, especially in the areas of parent committee involvement, control over resources, and staffing. Workshops will include presentations from well-managed Indian education projects on their techniques. Site visits for specialized assistance. Referral to OIE, consultants and/or HEW Regional Offices where appropriate. Workshops on procedures for grant application and good proposal design.
	o Workshops bringing together projects with similar goals for discussion and consultation with educational experts. Training workshops in objectives development against which evaluation data can be collected. Project site visits to provide specialized guidance by center experts in areas of general difficulty.

Functions	Activities
(2) Dissemination	o Identification of successful practices in Indian education projects and active communication of them to local projects, other Indian education centers, OIE, and other educational information networks (National Diffusion Network, Bilingual Education Clearinghouse, etc.). Dissemination of materials and guides developed to other centers and information networks. Identification of relevant successful practices and materials in non-Indian education programs through the various educational information networks for general dissemination to Indian education projects and use in technical assistance activities. o Development and dissemination of guides surveying methodology and instruments available for different types of programs (i.e., basic skills, bilingual development, etc.). Development and dissemination of instruction guides on how to perform process and product evaluations. o Development and dissemination of materials on exemplary practices and availability of information of different types of programs. Dissemination of guides on Indian Education Act and regulations, parent committee rights and responsibilities, and other project management concerns.
(3) Evaluation	o Evaluation of programs funded under the provisions of the Indian Education Act and other Indian education programs conducted to determine their effectiveness in meeting the special educational and culturally related academic needs of Indians. Short-range-process and impact evaluations conducted on selected aspects of the Parts A, B and C programs. Subjects would include such areas as early childhood projects, survey of need for special education, impact of Indian Education Act sponsored GED and ABE programs, etc.

Functions	Activities
	o Evaluation of selected Indian education projects conducted to test and document success of projects in meeting their goals and objectives and effectiveness of project materials and practices. Positive results will be used to support project submissions for review by the Joint Dissemination Review Panel of HEW's Education Division.
	o Research activities conducted to determine the special educational and culturally related academic needs of Indian children.

E. Center Cost and Staffing

(1) The approximate cost of funding one center would be $500,000 for a 12-month period. Appendix A provides a cost breakdown for a typical center.

(2) Staffing of all centers will include specialists in evaluation methodology and project management, since needs in those areas are general to all projects. Other areas of expertise which likely will be reflected in staffing are compensatory education, adult education, Indian studies, Indian student and community needs, and dissemination.

(3) In order to provide the services needed by its grantees, individual resource and evaluation centers will be established to serve eight different regions of the country. Each center will be located to serve a specific group of states. Tribal boundaries and cultural relationships between Indian groups will be maintained so that each tribe or Indian nation would have one center responsible for education assistance to projects in which its members participate. Appendix B is a map of the United States showing the proposed regional areas which will have centers, including the total number of Title IV projects funded in each area and Indian students eligible for Part A project participation in 1978.

The centers will be established under contract through a national competition based on a request for proposals. The performance period for the contract will be three years, although funds will be provided one year at a time, with subsequent support dependent on satisfactory performance and availability of funds. At the end of three years, the Office of Education will assess the performance of the center concept and determine whether to continue the centers, revise their goals, or try some other approach. If the decision is made to continue the center system, there will be a new national competition for which existing centers may also compete.

By law, eligible applicants include Indian tribes, Indian institutions, and Indian organizations, public agencies, state educational agencies with more than 5,000 Indian students in public schools, and private institutions or organizations.

F. Center Implementation and Assessment

An RFP would provide the detailed plans for implementing and assessing the resource and evaluation centers. The following provides key elements for implementation and assessment.

(1) For implementation, each center would carry out a three phase plan of work.

- Phase one would be essentially a planning and research phase. However, it is expected that some center services to clientele would begin during this phase. This phase would allow each center the opportunity to systematically plan their program and become more familiar with clientele needs and concerns. The Office of Education would be intimately involved in providing direction and assistance to each center during this phase. The length of this phase would be a maximum of six months.
- Phase two will allow for full implementation of center activities. During this phase close monitoring of center activities and technical assistance and support, as needed, will be provided to each center. The length of this phase would be a minimum of 12 months.
- In phase three, each center will continue to provide full services to their specific clientele. In addition, this phase will mark the beginning of a full evaluation of the impact and effectiveness of each center and will end with a total assessment of the center concept. The length of this phase will be 18 months.

(2) The assessment of the centers will entail three facets.

- Each center will be required to conduct an on-going self assessment of its activities and effectiveness that would start from the time the contract was awarded. Each center will be required to report regularly on the results of its on-going assessment and to provide progress reports, financial status reports, etc.

- The second form of assessment would be an independent third party evaluation of each center's effectiveness and impact. The Office of Education would select the evaluators and would monitor this effort to assure objectivity.

- The third aspect would be an overall assessment of the center concept. The individual self-assessment reports and the independent evaluations of the centers would be part of this effort.

The evaluations of the centers and the overall assessment of the center concept would determine whether the Office of Education would continue the center system, modify the system, or try another approach.

III. CURRENT HEW STRUCTURES

This section examines the HEW Regional Offices and other departmental intermediary structures that presently exist to determine their applicability in meeting Indian education program needs.

A. HEW Regional Offices

In order to provide conveniently located assistance to State and local education agencies administering Federal education funds, HEW established 10 regional offices geographically located around the United States in Boston, New York, Philadelphia, Atlanta, Chicago, Kansas City, Dallas, Denver, Seattle and San Francisco. In 1977, many functions of the regional offices were recentralized to headquarters units. Staffing was cut back, with many transfers to headquarters.

In education, the regional offices retained responsibility to provide technical assistance in program management and program development and to disseminate information on Federal funding requirements and innovative practices.

A plan has been put in place for regional office participation in OIE program activities. This plan is a result of three meetings held within the past year between regional office personnel and the Office of Indian Education. This plan calls for participation by the regional offices in the area of dissemination of general educational information to LEAs, Indian tribes, Indian organizations and Indian institutions.

In addition to dissemination, the Office of Education anticipates that the regional offices could provide some technical assistance services to Indian education grantees as a result of the new requirement in the Education Amendments of 1978 calling for the annual audit of not less than one-third of the school districts receiving funds under Part A of the Indian Education Act. This rolling audit will serve to identify grantee problem areas. According to the audit procedures now being established, the identified grantee problem areas will be addressed by the most appropriate source available. Some dealing with regulations, legislative issues, and fiscal problems will be addressed by the Office of Indian Education project monitors. Specific kinds of technical assistance or project evaluation problems will come under the review of the proposed resource and evaluation centers, while other areas requiring more general kinds of technical assistance could be addressed by the HEW regional offices. The Office of Education will identify, in concert with the HEW regional offices, the kinds of technical assistance that the regional offices could best provide to Indian education grantees.

There will also be established a formal working relationship between the HEW regional offices and the resource and evaluation centers. This relationship will be essential to providing grantees and potential applicants with the most efficient and effective services possible.

Although the regional offices will provide some services, there are a number of compelling reasons why it would be counterproductive and inappropriate for the regional offices to function as the primary vehicle for meeting the needs of Indian education grantees. These concern the staffing, geographic location and the capability of regional offices in meeting specific Indian education grantee needs.

(1) The staffs in regional offices are available to provide general assistance in the broad area of project management, e.g., application and reporting requirements and follow-up monitoring of administrative and fiscal problems. Although Indian education grantees may need help in these areas, more crucial assistance is needed in developing sound management expertise as it relates to locally developed project goals and objectives. Many studies, such as the comprehensive and voluminous report: Review of the Literature on Educational Needs and Problems of American Indians and Alaska Natives: 1971 to 1976,

produced by the National Indian Education Association, have documented quite conclusively that the educational needs and perceptions of Indian people are often significantly different from the general population, and that the problems Indian communities face as a whole are much more severe than other communities experience.

Grantees also need to acquire knowledge of and gain experience in the use of innovative educational techniques, which would also require specialized kinds of assistance. To adequately meet this need, regional offices would have to have a number of specialists with extensive knowledge of Indian education needs, Indian communities, and innovative educational practices developed by or suitable to Indian populations. Regional offices do not have such specialists, nor is it likely that they could in the future employ specialists with this kind of background.

In addition, considerable travel support would need to be provided to HEW regional offices if a major support role in Indian education were to be undertaken. It is unlikely that such additions in both staff and travel support would be made to regional offices, since they were only recently recentralized and staffing cut back.

(2) The location of HEW regional offices does not conform to the geographic distribution of Indian tribal groups or Indian communities. The regional groupings of Indian education resource and evaluation centers reflect the efforts on the part of OIE to respect Indian tribal boundaries and cultural ties; it also would maintain existing working relationships that certain Indian groups have developed with each other over a period of time. Since regional program officers are not usually responsible for problems outside their region, the boundaries of the HEW regional offices would work against efficient service delivery to Indian grantees.

(3) A primary requirement of Indian education programs, and one which the Indian Education resource and evaluation centers will focus much of their efforts on is in the evaluation arena. These centers will both evaluate educational programs and assist grantees in developing/selecting evaluation designs.

> Many Indian education projects have developed specialized curricula and/or use instructional methods of non-traditional nature. The specialized curriculum of an Indian education project is often quite divergent from traditional public school curricula. This is important to recognize when projects develop and select an evaluation model or design. The appropriateness of an evaluation model will be dictated by the nature of the curriculum being taught and how it is being taught. Therefore, the selection and implementation of a particular evaluation model requires, on the part of those doing the developing and selecting, not only technical expertise in evaluation, but also a thorough knowledge and understanding of the educational needs and perceptions of Indian communities.

As this analysis indicates, HEW regional offices are not suitable for providing most services to address the needs of Indian education grantees.

B. Intermediary Structures

In a number of programs administered by the Office of Education there has been established, through contracts and grants, "intermediary structures" that address problems requiring assistance in areas not readily accessible to local grantees. Some of the problems are specific to a particular program, such as the need for curriculum development in bilingual education; others are more general to projects which have been designed to improve effectiveness of education for disadvantaged youth. These general concerns include the need for improvement in evaluation techniques, management practices, and information on other projects which have been successful in achieving similar goals. Except for dissemination activities, each of these intermediary structures address only one specific kind of program issue. Faced with program needs that are not fully predictable and are modified as projects develop, these structures can adjust to meet frequently changing requirements. Nevertheless, each structure is temporary in nature. Initial awards are for a specific period and the structures only need be supported as long as they provide efficient service required by the program. Competition for renewal of awards also serves to keep such structures responsive and provides an opportunity for the Office of Education to change requirements periodically.

Below is a list of agency programs that have employed the use of one or more intermediary structures to provide services to grantees. A brief discussion follows three of the programs which have particular relevance to the planned resource and evaluation centers and/or to Indian education grantees.

Program	Problem	Type of Structure and Number of Awards
Emergency School Aid	Need to improve local plans and identify desegregation assistance needs; need to address problems arising during desegregation	Training and advisory services--General Assistance Centers (36); university training institutes (17)
		Grants to nonprofit organizations (200)
Education for the Handicapped	Need to assess children, train teachers; need to assist states in preparing special education plans	Regional Resource Centers (14)
	Need to assure accessible services to deaf-blind children	Deaf-Blind Centers (10)
Vocational Education	Lack of national and state level occupational information	National Occupational Information Coordinating Committee (1)
	Need for applied research and development dissemination; evaluation assistance	National Center for Research in Vocational Education (1)
Title I, ESEA	Evaluations weak; not showing actual results	Evaluation Technical Assistance Centers (10)

In order to improve the quality of local Title I evaluations and to provide a methodology for aggregating compensatory education data nationally, Congress mandated the development of evaluation standards, evaluation models with uniform procedures and criteria for use by SEAs and LEAs, a standardized reporting system, and the provision of technical assistance to LEAs and SEAs.

Ten technical assistance centers were established on a competitive basis to implement this evaluation and reporting system. They provide technical assistance on three evaluation models developed for use by grantees: Model A, the norm-referenced model; Model B, the control group model; and Model C, the special regression model.

Title I projects working in the basic skills areas of reading, mathematics, or language arts are required to use one of the models to provide student outcome data; Title I projects working in other areas are not required to use one of the models, since validated evaluation instruments are not available to measure effects of many other types of projects, or the ability to aggregate scores is questionable.

By law, the Title I centers may only provide technical assistance to state educational agencies to assist local Title I projects. Any assistance to other programs is not within the scope of the mandate.

Nevertheless, the high technical standards of the Title I models could be adopted by the Indian education centers and eventually be required of projects with objectives, duration, and size of funding appropriate for their use. Indian education resource and evaluation centers could serve as a bridge betweeen Title I centers and the Indian education projects, modifying packages on the models for use with Indian students and providing training and technical assistance directly to grantees, through workshops, instruction guides, and visits on site. The Indian education centers could also take responsiblity for review of the success of implementation of the models and revising them where appropriate to better meet the needs of the projects.

Program	Problem	Type of Structure and Number of Awards
Bilingual Education	Local needs for bilingual materials-commercial market not attracted	Materials Development Centers (19)
	Teacher training in bilingual education techniques	Training Resource Centers (20)
	Assessment of needs for materials and training; design and assistance	Dissemination and Assessment Centers (3)
	Diffusion and publication of materials and techniques	Dissemination and Assessment Centers (3); Bilingual Education Clearinghouse (1)

A large network of four types of centers for bilingual education has been established to cover all geographical areas of the United States. These centers provide services to the Title VII Bilingual Education program grantees.

During the implementation of Title VII, ESEA, it was found that insufficient market incentives existed to inspire commercial publishers to develop and publish texts in the necessary range of languages and subjects. Centers were set up to develop materials needed by Title VII projects and disseminate them at cost. Inservice teacher training centers were established, often in universities, to provide training for teachers in bilingual education techniques. In order to prevent duplication of effort and to assure validity in testing of materials, dissemination and assessment centers and a clearinghouse were established. All of these centers operate cooperatively in an organized network to provide services to the projects.

Close cooperation between the Indian education centers and the bilingual education centers would be requisite, since several bilingual centers do produce and validate Indian language materials. The Indian education centers could serve as a bridge between the considerable resources available in the bilingual education program and Indian education projects interested in including bilingual activities in their programs.

Program	Problem	Type of Structure and Number of Awards
National Diffusion Program	Improve dissemination of all education programs; identify effective educational practices	National Diffusion Network: State Facilitators (53) and Local Developer/Demonstrators (95)

The National Diffusion Network (NDN) was established to improve the dissemination and adoption of successful practices from Federally funded innovative projects. The Office of Education has funded many innovative projects in local school districts over the past decade, but little transfer has occurred to other districts of the experiences gained and materials and practices developed. Instead, districts often seek funds to attack the same problems, independently and duplicatively. As the roster of completed projects grew, HEW established the Joint Dissemination Review Panel to screen products of projects for hard evidence of success. Once approved by the panel, the materials could then be widely disseminated to local districts in hope of improving the quality of educational programs and reducing duplication of development.

In order to provide a structured process for transfer of the successful materials, a network was established in 1974 of local school districts with projects certified as having sufficient evaluation data to prove success (Developer/Demonstrators) and State Facilitators (an LEA, SEA, or non-profit organization) to serve as contact organizations for information about the types of projects available in the network. Support comes from the Commissioner's discretionary authority in the Special Projects Act. If a local school district is willing to commit itself to adopting a particular innovation, the Developer/Demonstrator district has sufficient funds to provide training and transportation for initial introduction of the project to the adopter district.

This system has been evaluated by Stanford Research Institute (SRI) as being successful in spreading innovations. According to SRI, the formalized process of verifying project claims to achievement, the use of coordinators in each state to respond to inquiries, and the use of actual district staff as trainees for adoptions by other districts, all combine to form an effective system of diffusion.

Regarding use of the NDN by Indian education, two aspects are important. First, Indian education projects should be kept informed of the availability of products and services from this system. The NDN could provide a source of high quality, fully tested materials, training, and demonstrations in many educational areas of relevance to Indian education projects. However, while certain NDN projects cover content areas of interest to Indian education projects, many Indian education problems are not included in the NDN's roster of innovations. Furthermore, only a couple of NDN projects have been implemented in districts with large numbers of Indian students, so the innovations have not been tested in general on the Indian population. Indian grantees could learn much from the network models, but many projects and approaches would have to undergo extensive modification to be used by Indian students.

Secondly, some Indian education projects have been funded for sufficiently long duration and at levels such that the directors should be encouraged to develop evaluation data validating their program's approaches and to compete to enter the NDN as Developer/Demonstrators. Although few Indian education projects are at the stage where programs have stabilized and are susceptible to the rigorous and highly quantitive validation evaluations required, it remains a goal to which more experienced grantees could aspire.

As a means of channeling help to the Indian education projects, the NDN alone would not suffice. Its projects are not targeted on the specific needs of Indian education projects but serve a multitude of clients. However, as noted above, the NDN is a prime resource into which Indian education centers can link and screen for information on programs relevant to Indian education projects as well as counsel exemplary Indian education projects in applying for inclusion.

C. Discussion of Alternative Structures

While the HEW Regional Offices and intermediary structures of other programs can operate to complement the mission of the Indian education centers, and would in fact serve as very valuable resources for the centers, their existence does not mitigate the need for centers created specifically to serve Indian education projects. The limited staff of the HEW regional offices are responsible for assisting a large number of programs and cannot focus extensively on Indian education. Nor do they have the specialized expertise required in areas such as evaluation and Indian education needs.

The intermediary structures of other programs concentrate usually by law on grantees funded under specific authorities, e.g., the Emergency School Aid Act or the Bilingual Education Act. Some have relevance to Indian education projects, but they are not able to consider independently the problems of Indian students in their overall content.

The opportunity to examine these other structures has had major benefits, however, for Office of Education design of the Indian education centers, since it is apparent on review that there is a vast array of educational innovations in the field, with in many cases a structured system available to channel information on them to Indian education grantees. It is not realistic to expect the 1,100-odd Indian education projects to keep up with this abundance of sources, particularly since much of the material would not be relevant to their needs or would need adaptation and modification. Indian education centers, however, could serve as a broker between the projects and other available resources, funneling information where it was needed, based on a thorough familiarity with Indian project needs. This function will be a prime requirement built into operating objectives of the centers and included in evaluation of their performance.

IV. SUMMARY

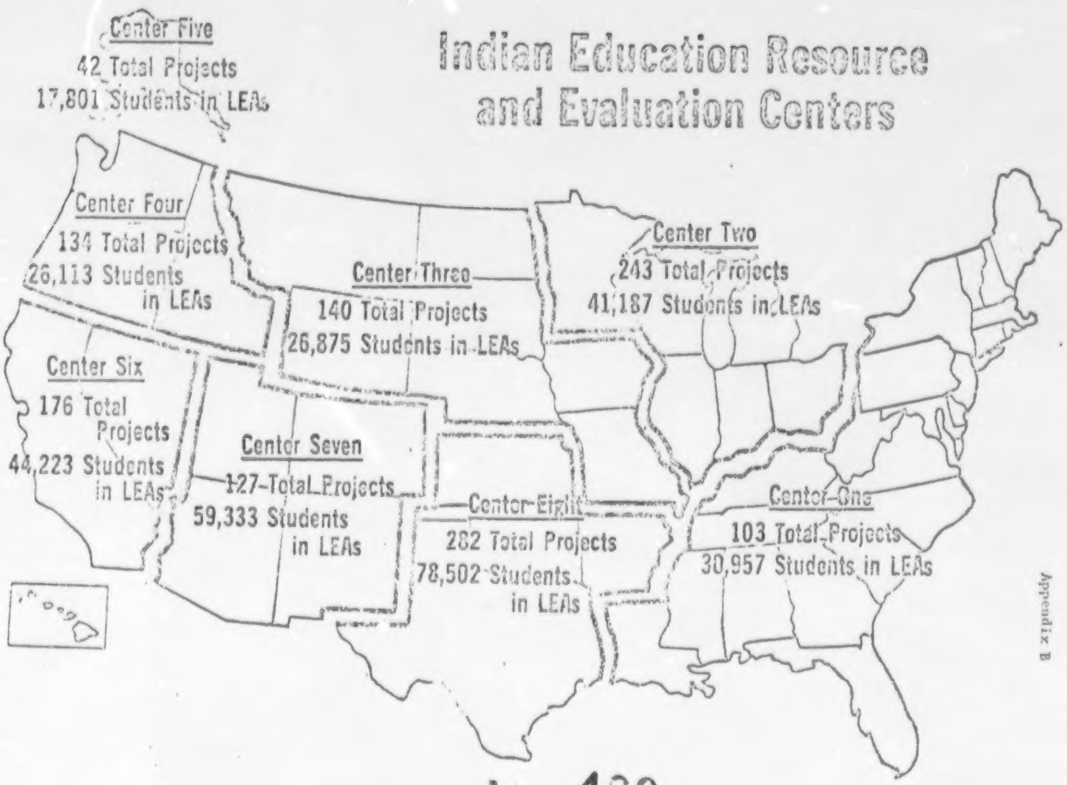
The concept of establishing Indian education and evaluation centers is a long-range endeavor of significant importance to solving some very critical problems and addressing unmet needs.

The centers would provide services that are greatly needed and that cannot be provided by current staff of the Office of Indian Education or HEW Regional Offices. Nor can structures funded to support other programs systematically provide services of the kind and to the extent needed by Indian education projects.

Many federal education programs have found it useful to establish intermediary structures. Indications are that the existence of general needs for services is a common one among education projects and implies that establishing such structures is a useful means of attacking the problems. In most cases these structures are funded to provide services that are highly specific to the particular program, although they may have side benefits to other programs as well. The Indian education centers would be no exception to this, concentrating on the Indian student target group and the individual needs of Indian education projects, providing certain services directly--such as evaluation assistance--and acting as a broker for all the various innovative ideas, materials, and services available in the field of education that may be relevant to a particular project's needs.

Consequently, the Office of Education requests Congressional support for establishing the newly authorized resource and evaluation centers to benefit the long-range development of programs for Indian children and adults.

Indian Education Resource and Evaluation Centers


Center Five
42 Total Projects
17,801 Students in LEAs
Center Four
134 Total Projects
26,113 Students in LEAs
Center Six
176 Total Projects
44,223 Students in LEAs
Center Three
140 Total Projects
26,875 Students in LEAs
Center Seven
127 Total Projects
59,333 Students in LEAs
Center Two
243 Total Projects
41,187 Students in LEAs
Center Eight
282 Total Projects
78,502 Students in LEAs
Center One
103 Total Projects
30,957 Students in LEAs

Appendix B

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THE MINNESOTA CHIPPEWA TRIBE, et al.,
Plaintiffs,
v.
FRANK C. CARLUCCI, etc., et al.,
Defendants.

Civil Action No. 175-73

FILED
MAY 8 1973
JAMES F. DAVEY, Clerk

JOHN CHARLES REDMAN, et al.,
Plaintiffs,
v.
JOHN R. OTTINA,
Defendant.

Civil Action No. 628-73

ORDER

THIS CAUSE having come on for hearing before the Court upon motions for preliminary injunction filed by plaintiffs in the two above-styled actions, and the Court having considered the said motions, defendants' opposition thereto, the entire record herein, and oral argument of counsel, and the Court having been fully advised in the premises, and the Court having found that certain actions have been taken and certain representations have been made by and on behalf of the defendants which indicate that the defendants have granted or are about to grant all of the relief sought herein by both plaintiffs, and the Court recognizing

that on May 5, 1973, the President of the United States appointed 15 individuals to the National Advisory Council on Indian Education (Affidavit of Jerry H. Jones, Special Assistant to the President, dated May 7, 1973), it is by the Court this 8th day of May, 1973,

ORDERED:

(1) That the defendants shall promulgate and cause to be published in the Federal Register proposed guidelines, rules, and criteria for Parts B and C of the Indian Education Act, specifying the form, content, and manner of applications by state and local education agenices, Indian tribes, Indian organizations, Indian institutions, and other institutions and organizations for payments pursuant to the Act, such promulgation and publication to be accomplished by May 10, 1973 for Part B and May 15, 1973 for Part C; and

(2) That notice of the availability of applications for programs under Parts A, B, and C of the Act shall be promulgated by the defendants in the Federal Register by May 8, 1973; and

(3) That the defendants shall diligently and in good faith process applications received for programs under the Act on the basis of the proposed regulations so published; and

(4) That all applications under Part A of the Act which meet the requirements of said Act and the regulations thereunder shall be approved and funds obligated or expended no later than June 30, 1973, and that the applications under Parts B and C of the Act shall be processed, applications approved, and funds obligated or expended under Parts B and C of the Act in accordance with the terms of the Act before June 30, 1973; and

(5) That on June 15, 1973, the defendants shall submit to this Court and serve upon all parties a statement detailing:

(a) The number of applications received for educational programs under Part A, Part B and Part C of the Indian Education Act;

(b) The number of applications for each part approved for funding;

(c) The amount of funds obligated or expended for such approved applications;

(d) The number of applications received which have been disapproved;

(e) The number of applications received which are still being processed;

(f) The steps taken by the defendants to constitute the Office of Indian Education within the Office of Education, including the appointment of the Deputy Commissioner of Indian Education; and

(6) That this Court shall retain jurisdiction over these cases; and

(7) That the unopposed motion to add parties plaintiff in *The Minnesota Chippewa Tribe, et al.* v. *Frank C. Carlucci, etc, et al.*, should be and the same hereby is granted; and

(8) That *The Minnesota Chippewa Tribe, et al.* v. *Frank C. Carlucci, etc., et al.* action, as to Richard M. Nixon, President of the United States, should be and the same hereby is dismissed as moot.

June L. Green

JUNE L. GREEN
U. S. District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JOHN CHARLES REDMAN,)
et al.,)
Plaintiffs,)
v.) CIVIL ACTION NO. 628-73
JOHN R. OTTINA,)
Defendant.)

AFFIDAVIT

Jerry H. Jones, being duly sworn, hereby deposes and says as follows:

1. I am employed at the White House as a Special Assistant to the President. In this capacity I am responsible for the submission of suggested nominees for governmental appointments to the President.

2. Appointments to the National Advisory Council on Indian Education have been made by the President on May 5th , 1973. A true and correct copy of the order effectuating these appointments is attached hereto as exhibit A.

Jerry H. Jones
Jerry H. Jones
Special Assistant to the
President

Subscribed and sworn to
before me this 7th day
of May, 1973.

Thomas J. English
Notary Public
My Commission Expires June 30, 1976

ORDER

Pursuant to the Provisions of Public Law 92-318 of June 23, 1972 (86 Stat. 343), I hereby appoint the following named persons as Members of the National Advisory Council on Indian Education:

Ellen A. Allen, of Kansas
Will D. Antell, of Minnesota
Amelia Ann Coleman, of Oklahoma
Theodore D. George, of Washington
Genevieve D. Hooper, of Washington
L. Sue Lallmang, of New York
Patricia Ann McGee, of Arizona
Daniel Peaches, of Arizona
David Risling, of California
Geraldine B. Simplicio, of New Mexico
Clarence W. Skye, of South Dakota
Fred Smith, of Florida
Boyce D. Timmons, of Oklahoma
Karma W. Torklep, of New Mexico
Joseph E. Upicksoun, of Alaska

THE WHITE HOUSE,

May 5, 1973.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Appendix B

RECEIVED DEC 27 1977

ALL INDIAN PUEBLO COUNCIL, INC.,)
Plaintiff,)
v.)
DR. ERNEST L. BOYER, ET AL.,)
Defendants.)

Civil Action
No. 77-1879

ORDER

Plaintiff having moved for a preliminary injunction and defendants having moved to dismiss or in the alternative for summary judgment, and upon consideration of these motions, the opposition thereto, the arguments of counsel, and the record herein, and for the reasons set forth in the Memorandum of this same date, it is by the Court this 19th day of December, 1977,

ORDERED that defendants, their agents, employees, and representatives be, and hereby are, enjoined from disbursing further funds pursuant to Title IV, Part B, Subpart (b) of the Indian Education Act and 45 C.F.R. §§ 187.11-.14, subject to the following conditions:

(1) Disbursements may continue so long as the balance of funds remaining is above $175,000;

(2) Disbursements that would draw the balance below $175,000 may be made only after defendants submit to the Court, and it approves, a disbursement plan that incorporates a pro rata distribution scheme based upon the total funds designated for these programs and the proportionate share each grantee, including plaintiff assuming it succeeds, would get according to the ratio of its recommended allocation to the sum of all the recommended amounts; and it is further

ORDERED that defendants' motion to dismiss or in the alternative for summary judgment be, and hereby is, denied.

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ALL INDIAN PUEBLO COUNCIL, INC.,)
Plaintiff,)
v.) Civil Action
DR. ERNEST L. BOYER, ET AL.,) No. 77-1879
Defendants.)

MEMORANDUM

This case arises under the Indian Education Act, which requires the Commissioner of Education to establish a program for making grants available to support planning, pilot, and demonstration projects in order to improve the educational opportunities of Indian children.[1/] Pursuant to this mandate, the Commissioner published regulations for the administration of the grant program. These regulations set out the standards, criteria, and priorities for disbursing the grants under the Subpart B programs.[2/] The applications for these grants were to be evaluated against specific criteria and awarded points based on the extent to which each criterion was satisfied. Additionally, the applications could earn certain priority points, including ten points for qualifying as a "comprehensive educational model." The events surrounding the award of those ten points to plaintiff's application and their subsequent removal are at the center of this controversy.

Plaintiff seeks a declaratory judgment that the decision of the defendants to deny its application for a grant was arbitrary,

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[1/] 20 U.S.C. § 887c(a)(1), (b) (Supp. V 1975).

[2/] 42 Fed. Reg. 32784-32797 (1977) (to be codified at 45 C.F.R. §§ 187.11-.14). Although these regulations are promulgated pursuant to Title IV, Part B, Subpart (b) of the Act, the resulting programs are commonly referred to as "Subpart B" programs and the regulations promulgated under this authority as Subpart B regulations.

capricious, and in violation of defendants' own rules and regulations. The matters presently before the Court are plaintiff's motion for a preliminary injunction and defendants' motion to dismiss or in the alternative for summary judgment. Upon consideration of these motions, the opposition thereto, the arguments of counsel, and the record herein, the Court concludes that an injunction is warranted and therefore grants plaintiff's motion, denies defendants', and makes the following

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Plaintiff is a nonprofit corporation organized under the laws of New Mexico to promote the welfare of nineteen Pueblo Indian tribes in that state. It submitted an application under defendants' Subpart B program for funding of its proposal to establish certain independent Indian Pueblo school districts in New Mexico. By the termination date for submission of such applications, the Office of Education had received ninety-three of them. Because of limited funds, however, only a few would receive grants.

The Office of Education requires the Office of Indian Education to develop a plan for reviewing all categories of grant applications.[3] The Application Review Plan relating to these Subpart B applications states, *inter alia*, that review of the applications "will be based *only* upon the published priorities and criteria and will be conducted by a field reader panel review system."[4] The plan further states:

> The Office of Indian Education will rank each proposal by its score, or adjusted score as determined by the test for statistical significance between rating panels. . . . It is the intention of the Office of Indian Education that

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[3] Grant Procurement Management Division, Office of Education, Discretionary Grant Program Review and Administrative Procedures Manual, Pt. III, § 2.

[4] Exhibit A to Plaintiff's Opposition to Defendants' Motion for Summary Judgment, first unnumbered page (emphasis in original).

> it will fund the top-rated proposals in each of the programs and subparts, where appropriate in terms of regulations and available funds.5/

During the last week of June of this year, the panels of field readers6/ evaluated the various applications in accordance with the criteria published in the regulations. The only guidance given to these panels for awarding the ten priority points to a proposal qualifying as "comprehensive educational model" was the definition of that phrase contained in the regulations. The panel assigned to evaluate plaintiff's application applied the definition and awarded it those ten points. As a result of that evaluation, plaintiff's application ranked second highest in the total number of points awarded. On August 8, 1977, this rank order listing of the applications was submitted to the Deputy Commissioner for Indian Education.7/

The Application Review Plan required all of the panels' scores to be tested for statistical significance in order to adjust for differences in the grading techniques among the various readers. To be valid, this so-called "anchor test" method required each field reader to evaluate four proposals selected to serve as the basis for measuring the statistical variations. On or about August 11, 1977, it was discovered that all the readers might not have evaluated these base proposals, thereby casting doubt on the validity of the anchor-test process. Because of the absence of sufficient documents to establish an "audit trail" to verify whether they all had in fact read them, this anchor test system was abandoned.

5/ *Id.* at second unnumbered page.

6/ These panels consisted of two private citizens with experience in Indian education and one government employee with experience in the educational fields addressed by the published criteria. *Id.*

7/ Deposition of Mr. William S. Floyd, Executive Officer, Office of Indian Education, at 85-87 (Dec. 1, 1977). (Mr. Floyd was designated by defendants in response to plaintiff's deposition notice.) The Deputy Commissioner, Mr. Gipp, has responsibility for administering the Indian Education Act, to include approving grants for Subpart B programs.

Instead, defendants decided to use the standard score system. In this process, the original field readers' scores are used and then reviewed to correct for reader bias. Ms. Judy Baker was placed in charge of this process.

During this review, Ms. Baker and her staff noticed that the field readers had awarded the ten priority points for "comprehensive educational models" whenever a majority of the three-member panel determined the application satisfied the definition as contained in the regulations. Believing the assignment of priority points could only be awarded if the panel unanimously agreed that the application was a "comprehensive educational model," it was decided to review also the priority point eligibility of the applications.

Before conducting that review, the staff agreed on a detailed interpretation of the definition of "comprehensive educational model," expressing it in terms of "functional criteria."[8] The critical criterion was that the proposal predominantly had to involve implementation rather than planning in order to qualify as a "comprehensive educational model." Based on this interpretation, it was determined that plaintiff's application was not entitled to these ten priority points, and as a result of the removal of these points, plaintiff's application dropped to twelfth in the rankings. There was some dissension among the staff both in the treatment given to plaintiff's application and in the planning/implementation distinction employed in the interpretation. Apparently, this distinction was not employed in other grant programs.9/

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[8] These functional criteria are:

> (a) educational program is a structured operational program that has been or is at the stage of being implemented to directly serve Indian children. This does not preclude a program which is being implemented on a pilot basis with continual evaluation, assessment, and modification from being included in this category.
>
> (b) "addresses the needs of the total child" is interpreted as the implementation of an operational program which has the child in their program for the full school day and provides direct services to that child to address the total needs. It is also interpreted as a program which has completed an assessment of the services being provided to the child, has planned and developed a supplementary program which addresses the balance of the child's needs. This supplementary program in combination with the other services is considered a comprehensive educational model.

Affidavit of Dr. Gerald E. Gipp, Deputy Commissioner for Indian Education at 3 (attached to Defendants' Motion for Summary Judgment).

On August 26, 1977, a funding slate was developed based on the review by Ms. Baker and her staff and was forwarded to the Grant and Procurement Management Division for negotiation and grant award. Soon thereafter, plaintiff was unofficially informed that its application would not be funded. A meeting between plaintiff and defendants' representatives followed, and based upon concerns raised, a Special Review Team was appointed to review the entire selection process. None of its members was associated in any way with the Office of Indian Education or had any role in the prior review process.

The funding slate devised by this team showed a close correlation to the slate earlier prepared by the Office of Indian Education staff during its review. Applying Ms. Baker's interpretation of "comprehensive educational model" to plaintiff's application, it also concluded that the proposal did not qualify for the ten priority points. Because of this correlation, the Deputy Commissioner, Mr. Gipp, decided to use his original funding slate.

The Special Review Team also issued a rather lengthy report criticizing the management of the grant review process. Some of the most pertinent shortcomings noted include:

> . . . The Division Director decided to deviate from the approved plan by having the applications with inconsistent scores be read again by another reader in [the Office of Indian Education]. This method is

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9/ Exhibit F to Plaintiff's Opposition to defendants' Motion for Summary Judgment.

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> in direct contradiction with [provisions of the Grants Procurement Management Division Manual] which states that no application may be subjected to the program review procedure more than once. The exceptions which are listed for this rule indicate if there are problems with the original evaluation then the application should be repaneled. This rule was not followed for all but one application, which was repaneled.
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> * * * * *
>
> In the development of a final slate OIE again deviated from [the manual] which states that a rank order listing be prepared based solely upon the scores of the reviewers. . . . This rule goes on to say if the OIE staff disagreed with the order of ranking according to the field reader reviews, then written justification should be submitted on their recommendation. There should have been no changes to the evaluation sheets completed by reviewers except for mathematical corrections. Under the process used by OIE, there was not an independent evaluation conducted on the applications when scores were changed by OIE staff.
>
> . . . Not only were field readers' scores changed in a seemingly haphazard manner (when priority points were either added or subtracted according to what computer listing you reviewed), but several scores were not even included on the first slate developed. Further, OIE staff may have used criteria, in making changes in scores, which had not been published in the Rules and Regulations. Applications must be reviewed only in the light of published Rules and Regulations. . . .
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> * * * * *
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> The practice of changing priority points previously scored by field readers . . . is a major problem. The [manual] states that no score of a field reader can be changed. Evidently, however, legal counsel for BIE has advised them that the actual changing of field readers' scores is permissable [sic]. Approval of this rather unusual practice opened the door for what appears to be extensive changes of field reader scores. This situation, coupled with the fact that BIE staff had no other way to change the overall ranking of proposals presents U.S.O.E. with a confusing and murky audit trail of just who changed scores, and more importantly, when scores were changed. 10/

In ruling on a motion for a preliminary injunction, this Court must follow the criteria established in this circuit by *Virginia Petroleum Jobbers Ass'n v. FPC*, 259 F.2d 921 (D.C. Cir.

10/ Excerpts of this report, including the portions quoted above, are contained in Exhibit C to Plaintiff's Opposition to Defendants' Motion for Summary Judgment.

1958). That is, the court must determine (1) whether the plaintiff has made a strong showing that it will likely succeed on the merits; (2) whether plaintiff will suffer irreparable injury without the injunction; (3) whether an injunction would cause substantial injury to other interested parties; and (4) whether an injunction would serve the interests of the general public. Id. at 925. Recently, the court of appeals modified this procedure somewhat by holding that when the latter

> three factors strongly favor interim relief [a court] may exercise its discretion to grant [an injunction] if the movant has made a substantial case on the merits. The court is not required to find that ultimate success by the movant is a mathematical probability . . . .

Washington Metropolitan Area Transit Comm'n v. Holiday Tours, Inc., 559 F.2d 841, 843 (D.C. Cir. 1977).

A. Likelihood of Success on the Merits

Principles of administrative law shape the contours of the merits of this case. It is clear that an agency must follow its validly prescribed regulations even when the administrative action under review is discretionary. Service v. Dulles, 354 U.S. 363, 372 (1957). The excerpts of the report of the Special Review Team quoted above clearly indicate that defendants violated their regulations in awarding priority points based on criteria not published in the regulations. Defendants submit, however, that they did not use a new, unpublished definition of comprehensive educational model, but rather an interpretation of the published definition. Nevertheless, the interpretation was expressed in terms of "functional criteria" and any criteria used to evaluate the applications were to be published. These were not.[11/] Moreover, interpretations of regulations affecting "the substantive rights of persons outside the [agency]" must also be published if they are to be valid. Anderson v. Butz, 428 F. Supp. 245, 250 (E.D. Cal. 1975), aff'd, 550 F.2d 459 (9th Cir. 1977).

[11/] See 45 C.F.R. § 187.12.

The Special Review Team's report also notes various instances in which defendants failed to comply with the Grants and Procurement Management Division Manual and their own Application Review Plan prepared as required by the manual. Because it appears that the guidelines contained in the manual and plan were to be mandatory, defendants were required to follow them. See Thorpe v. Housing Authority, 393 U.S. 268, 276 (1969).

Not only have defendants apparently failed to follow the required procedures in the application review process, but two of the factors prompting defendants to deny the ten priority points to plaintiff's application are also of questionable validity. The first was the conclusion that the field reader panels had to agree unanimously before an application received the ten points as a "comprehensive educational model." Defendants have pointed to no regulation or guidelines setting forth that requirement. Some of their own submissions, however, suggest the contrary. Attached to the deposition of Deputy Commissioner Gipp is a score sheet apparently used by the Special Review Team when it evaluated plaintiff's application using the new interpretation of "comprehensive educational model." At the place for granting or withholding the priority points is an asterisk, explained at the bottom of the sheet as follows: "Concurrence of two reviewers, results in the score being carried to the subtotal." Although in this instance two of the three reviewers concluded that plaintiff's application did not satisfy the new interpretation, the explanation clearly suggests that if two of the three had concluded otherwise, the points would have been awarded. This is confirmed by another of defendants' submissions. They provided copies of the proposals of the three successful applicants who were awarded the ten priority points, along with the comments of the members of the field reader panels and Special Review Team who evaluated the proposals. In the case of the Navajo Academy, one of the readers of the Special Review Team stated that the ten points should be denied. Nevertheless, because the other two readers awarded the points, they apparently were included in that applicant's total.

Secondly, there appears to be no authority for concluding that "comprehensive educational models" include implementation programs but not planning programs. Defendants simply say that interpretation was based on the published regulations. They cite no specific provision, however, and cross-referencing the definitions in the regulations is inconclusive. A "comprehensive educational model" is defined as "an educational program which addresses the needs of the total child: academic, social, cultural, emotional, and physical." The term "educational program' used in that definition does not appear to be defined elsewhere, but "educational model" is. It is defined as a kind of "demonstration program," which in turn is defined as a program or project that demonstrates "a unique educational concept, *in theory and/or implementation*, and whose applicability may be replicated by other programs or projects." 45 C.F.R. § 187.1 (emphasis added). Thus, at least inferentially, "comprehensive educational models" includes programs for planning (*i.e.*, "theory") or implementation. Defendants point out that there is also a separate definition for "planning grants." That does not require the conclusion, however, that programs qualifying for such grants cannot be "comprehensive educational models."[12]

In another Indian case before the Supreme Court to review action by the Bureau of Indian Affairs, the Court stated:

> This agency power to make rules that affect substantial individual rights and obligations carries with it the responsibility not only

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[12] There is some indication in the record that officials of the Office of Indian Education discussed plaintiff's proposal with it prior to submission and suggested that its concept would satisfy the definition of "comprehensive educational model." See Deposition of William S. Floyd, Executive Director, Office of Indian Education, at 266-67 (Dec. 2, 1977).

> to remain consistent with the governing legislation, but also to employ procedures that conform to the law. No matter how rational or consistent with congressional intent a particular decision might be, the determination of eligibility cannot be made on an ad hoc basis by the dispenser of the funds.
>
> The Administrative Procedure Act was adopted to provide, inter alia, that administrative policies affecting individual rights and obligations be promulgated pursuant to certain stated procedures so as to avoid the inherently arbitrary nature of unpublished ad hoc determinations.

Morton v. Ruiz, 415 U.S. 199, 232 (1974) (citations omitted). Although in the case sub judice the agency and tribes may be different, this Court's conclusion is not. There is a substantial likelihood that defendants have acted contrary to the law, thereby warranting a preliminary injunction if merited by the equities of the case.

B. Equitable Considerations.

Defendants have informed the Court that the funds under this program are being disbursed to the six successful applicants at a rate that will soon bring the balance below that requested by the plaintiff's application for its program. Thus, should the plaintiff eventually succeed on the merits of this case, it very well could be a meaningless victory. It would have won the battle but lost the spoils of war - the funds with which to implement its proposal. There appears to be no remedy for this loss.

This Court has an interest of a similar nature. Without an injunction to ensure the availability of sufficient funds, the Court could find itself in a position unable to effectuate any final judgment that might be entered in plaintiff's behalf. A decision for plaintiff on the merits would uphold the point of law, but fail in administering justice, for no relief could be given the plaintiff. As a matter of public interest, the Court should not be left powerless to effectuate justice.

The Court must also consider the potential injury to the six successful applicants from entry of a preliminary injunction. No doubt, some disruption will occur because there is only a limited amount of funds available, and an order directing that a sufficient sum be preserved in the event plaintiff should prevail necessarily means money must be taken away from these others. 13/ This harm can be minimized, however. Defendants could continue to distribute funds on a pro rata basis after determining what amount must be retained to provide for plaintiff's contingent proportionate share. Any harm suffered by these other grantees, whose total amount may be diminished, is significantly less than the harm to plaintiff, who may get nothing even if it was entitled to a grant. See Charlie's Girls, Inc. v. Revlon, Inc., 483 F.2d 953, 954 (2d Cir. 1973) (per curiam), quoted with approval in Washington Metropolitan Area Transit Comm'n v. Holiday Tours, Inc., 559 F.2d 841, 844 (D.C. Cir. 1977).

Having determined that plaintiff is entitled to a preliminary injunction, the Court must decide how much money defendants must keep in reserve in the event plaintiff also succeeds on the merits. Plaintiff's grant application requested $212,614. Those applications that were successful, however, were funded at a level below that requested by the grantees. Part of the review process was to determine whether the proposal could be accomplished by an amount less than that requested. In plaintiff's case, $175,000 was the maximum recommended for its proposal. Therefore, the Court will permit the defendants to continue disbursing funds to the other six successful grantees so long as they reserve $175,000 for plaintiff or such lesser amount as may be equitable when the needs of

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13/ Plaintiff has raised the question whether it will even be necessary to reduce the funds of the successful grantees if it prevails. It notes that when the defendants invited submission of grant applications, the publication stated that $1,063,000 would be available for funding Subpart E programs. 42 Fed. Reg. 22407 (1977). The sum of the grants awarded to the six successful applicants, however, only totals $504,572. It is not clear why the balance is unavailable.

all the grantees, including plaintiff, are considered in light of the total funds designated for these programs and the proportionate share each grantee would get based on the ratio of its recommended allocation to the sum of all the recommended amounts. Prior to going below the $175,000 level, however, defendants must submit a plan of disbursement for this Court's approval.

Judge

Date: December 19th, 1977

STATEMENT OF FRANCIS LEMAY, PRESIDENT, COALITION OF INDIAN CONTROLLED SCHOOL BOARDS

Ms. **LEMAY**. Mr. Chairman, I am glad we are having these after the amendment was passed. You may think about withdrawing your amendment.

Mr. **KILDEE**. Well, I think you have two agencies with whom you have problems. I am sure that this committee's role in relating to both those agencies will be to do everything possible to make them responsive to the needs of the Indian community, by working with the Indian community.

I think very often Government becomes patronizing and thinks it knows what is good for you, rather than listening to what you think you need. And I would hope that this committee can assist in trying to remedy that.

Ms. **LEMAY**. I would just like to say that here again, when we talk about equal education, it doesn't mean the same for all Indian people.

Mr. **KILDEE**. In other words, education should be tailored to the needs of the individual and the community.

Mr. **DUPRIS**. Perhaps at this point, I would like to add a clarification related to that very point.

The formula funding will eventually be based upon what is called a site specific formula funding. Now, that is totally different from the funding formula that has been proposed.

The funding formula proposed at the present time is not site specific. And that is a crucial difference. Because when the standards are complete, situations such as Duckwater, Inter-Mountain, will be basing their operational needs on the standards. They will be basing their construction needs in dorms on the standards developed. Each is required to have plans that are site specific, with time lines, amounts of money, programs and so forth.

The formulation that we have now is going to cause problems and perhaps rip the heart out of some of the schools because it is not site specific.

The allotment formula was designed in the original intent to disburse the money based upon a formulation, a formula. It didn't say what type of formula. It just said a formula. And in that case, special needs was important. And that the cost of the school must be based upon the cost of bringing the schools up to a level of standards established under sections 1121 and 1122. It is designed to be site specific.

If in fact this formula was put together on a site specific basis, we would have the needs of Duckwater handled and the needs of Inter-Mountain and other schools, because it must be site specific.

But because it is based not on site specificity, but upon taking how much money we have and spreading it out to as many people as it will go, the philosophy is different.

Therefore, over the next 2 years that whole formula will have to undergo a metamorphosis, from being general and missing a lot of people by being general, to a very site specific. And it is required within 2 years, this must be a site specific design.

Now, it doesn't say the money will be there to fund it. That is the issue.

Mr. KILDEE. I have to caution you on that. In formulas you have to make sure not only is the formula based on proper criteria, but that the formula is fully funded.

I have seen some disastrous things take place when the genius of mankind has put together a fairly good formula, and then it is funded at 95, 90, 85, 80 percent. And everyone is really hurt very badly by that.

So I think you have to bear in mind a very good formula, with full funding of the formula.

Mr. DUPRIS. It is also necessary that each school may have different standards because they may have alternative standards. You may have 40 different schools, 40 different alternative standards. Then multiply that by the other types of standards, depending upon decisions by the Secretary of Interior.

Now, that does not mean uniformity, like a formula is being provided now. It means site specific, and it means alternative, and it means tribally controlled, Indian controlled education.

It is for this very reason that a formula design was put forth in order to get the information necessary to advocate for money, to have a basis by which Congress, in its wisdom, can examine and say, yes, you need that money, instead of having a broad brushing of all the schools by a Bureau that does not have the information on hand, and Congress thereby turning them down, thereby Indian children suffering.

It is this very reason that a logical formulation of need was to be put forth on a very clear annual plan, with time lines.

I do not see that happening. I do not see the intent in the formula, nor in how to revise it.

But it was the intent of the law, at least from our perspective, and perhaps we are self-serving in that. However, that is our position.

We advocate Indian control of Indian education. And we were part of putting this together. And we hope that the committee will look at that, in that frame of reference.

Mr. **Kildee**. I think self-interest is not illegitimate. Those who are seekers after justice have to seek their own justice also.

Mr. **Doss**. Our chairperson, Ms. Peterson, is going to present testimony.

STATEMENT OF VIOLA PETERSON, CHAIRPERSON, NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION, WASHINGTON, D.C.

Ms. **Peterson**. Mr. Chairman, I would like to thank you for your efforts in deleting the BIA educational program from H.R. 2444. I am most happy to be here.

I am going to be following up a little bit as to what Mr. Dupris has said here. But I am going to begin here generally.

As chairperson of the National Advisory Council on Indian Education, NACIE, I would like to thank Chairman Carl D. Perkins for the opportunity to testify at this hearing today [illegible] the implementation of the provisions of title XI of P[illegible]-561, the Indian Basic Education Act, which was enacte[illegible]

First I would like to restate the NACIE's [illegible] of April 21, 1979, indicating our opposition to the pro[illegible]nsfer of the Bureau of Indian Affairs education programs [illegible] proposed cabinet Department of Education.

> I move that the position of the National Advisory Council on Indian Education shall be one of opposing the transfer of the Bureau of Indian Affairs Educational Programs to the proposed Department of Education.

Although the "BIA Transfer Provision" was deleted from H.R. 2444, the House bill to establish the cabinet Department of Education, our council opposes any future attempt to transfer the BIA education programs, either by Executive order of the President or by future legislation of the Congress.

One of our primary reasons for this position by the NACIE is directly related to Public Law 95-561. The exemplary job which Mr. Earl Barlow, Director of BIA education is currently undertaking via his task forces we feel will greatly improve the effectiveness of the administration of Indian education programs within the BIA.

The National Advisory Council on Indian Education would like to publicly commend Mr. Barlow and the task forces on their extraordinary efforts to provide a "quality education to Indian children."

However, we feel the time allotted to Mr. Barlow to effect adequately these needed changes is insufficient to complete his major tasks. Mr. Barlow should be allowed at least 2 years to change positively the administration of educational programs within the BIA.

In addition to the provision of sufficient "time resources" needed to make needed changes in educational programs within the BIA, Mr. Barlow must be provided the following additional resources to insure the attainment of the mission with which he has been charged by the Congress via Public Law 95-561: (1) Adequate commitment from the top management of the BIA; (2) adequate staff capability to make the necessary changes; and (3) adequate financial capability to make the necessary changes.

The committee should strive to insure that the four types of resources identified above—time resources, commitment, staff capability, and financial capability—are readily available to Mr. Barlow in order that he will be capable of effectively implementing Public Law 95-561.

Second, I would like to bring to the attention of the committee a number of concerns specifically related to the Indian education programs under the Indian Education Act, Public Law 92-318, as amended by Public Law 95-561. As you are aware, the NACIE is charged with a number of responsibilities specifically related to the review of administration of title IV programs under title IV of the Indian Education Act, Public Law 92-318, located within the Office of Indian Education at the Office of Education. An attachment at the back shows our functions according to the law, the things that we are mandated to do.

The NACIE has identified four problems which are related to the implementation of Public Law 95-561, including the following: one, a lack of adequate communication and Indian community involvement in the design of the "Indian resource and evaluation centers" proposed by the Office of Indian Education.

Two, a lack of adequate and timely information provided to the National Advisory Council on Indian Education by the Office of Indian Education, regarding both current and new programs, such as the "Indian resource and evaluation centers," which our council has been mandated by the Congress to review.

Three, the absence of a separate "line-item budget category" for the National Advisory Council on Indian Education separate and distinct from the budget of the Office of Indian Education at the Office of Education. An attachment here will show that we are indeed supposed to have a separate line-item budget. At the present moment, our budget is under the direction of Dr. Gipp. He recommends our budget, and we have to take it.

Four, the restrictive definition of "Indian eligibility" added by section 1147, data collection, to section 453 of the Indian Education Act will exclude Indian children who are not federally recognized or who do not have enrollment numbers.

Mr. **Lovesee.** If I may break in for a second, on point No. 4, the restrictive definition of Indian eligibility added by section 1147 has been something which has come up before to this committee. What guidance have you received from the Office of Indian Education with respect to that particular section, because the committee does not view it as a definition change? It is viewed by the committee as a data collection section, and if the Office of Indian Education has left any doubts upon that particular point, we would like to get that clarified.

Ms. **Peterson.** We at NACIE don't know what is going on, and I received just today this copy of the OIE, Office of Indian Education, newsletter, and in it, it talks about the definition of Indian study. On last February 8 and 9, it says, "An initial consultation meeting was held in San Francisco with tribal State and local representatives from Alaska, California, and Oklahoma. This was held with representatives," and it goes on. The meeting was held. I am chairperson of the National Advisory Council, and I was conducting a meeting at our offices, a general NACIE meeting.

Dr. Gipp walked in and tapped individuals on the shoulder. I had no idea what he wanted to discuss with them, because he took them into Dr. Doss'—at that time, it was Stewart Tonemah's office—spoke to them and came back. Nothing was said to the rest of the council. We heard nothing about it. A few days later, or later on, I received four anonymous phone calls from around the country, saying are you aware a secret meeting is being held in San Francisco regarding the definition of Indian. I said I had no idea; I know nothing about it. Had I had the time and resources right at that moment, I would have gone to San Francisco and walked in on the meeting.

On February 14, or just before that, I was apprised that another meeting was being held here in Washington. I did come to that meeting. I walked in unannounced to the meeting to let it be known that indeed I had found out about it, and that our council was concerned, and I, as an individual, was concerned.

So then I was included very generally in the meeting.

We were notified of the third meeting. Mike Doss and I attended a third meeting. We were invited and received a letter. Inasmuch as we had found out about the meetings, I suppose they figured we might just as well be included. So we went. And we sat there, and we asked for transcripts of the previous two meetings; also a transcript of the third meeting. To this day, we have not received a transcript of those meetings. We have no idea—and we are a 15-member Presidentially appointed council—we have no idea where the definition of Indian study is, the status of it, what decisions are being made, and we also have the same problem as far as readers for the title IV programs are concerned, parts A, B, and C.

I have been in the program from day 1. I had no idea how readers were chosen, but they were chosen. These are people who make the decisions on what programs get funded across this country. Once again, we are right back to the first square; Indian involvement at the grassroots level is not taking place. Decisions are being made up here—I don't know by whom—but it does look as though we have a dictatorship on our hands in the Office of Indian Education, and I will say that for the record. Our office is located right here in Washington, D.C., and we do not receive information.

This large report, the appropriation report that has been published for general publication, Dr. Doss just happened to come across it, and I guess it was Mr. Dupris, maybe, but, however, he found it about 2 days ago. When our council found it, when we got the information about these centers that were proposed, we received about an 8- or 10-page booklet with the verbage in it, describing it in general; then it said the appendixes would describe the budget, I believe, and whatever, but all the appendixes were missing; only the words were there. So we were not privy to the information of what they would cost, where they would be located, or whom they would serve.

That is another situation. When our council also held a meeting at Muskogee, Okla., last fall, and we have five new council members right now, the council at that time approached very definitely and brought it out in public, that we were not receiving—the council was not receiving—information from the Office of Indian

Education. We need these to make our recommendations. We need to know who is being served, how many people, in what area, and everyone else seems to get the information, but when our council members asked Dr. Gipp, he was very offended that it should be made public, and he said, "I am available to you at any time. I am as near as your phone."

Now, bear in mind that we have 15 council people from across this country, and you can get 15 different versions if you go by phone. Each person can be told a little different story.

We are asking for written documented information as to what is going on. Why are the Indian people not consulted on these kinds of things? We have these members across the country that are sitting out there, that are well able to look into these things. These are experienced people and know their educational programs. They work with them, and they know the individuals by their first name. They know their families, and it just offends all our sensibilities to think one person can sit here in Washington and tell us that the people across the Nation, the Indian people across this country don't have the good judgment to make these decisions.

That is my story. And I will go on with the other things.

[Ms. Peterson's complete statement with attachments follows:]

TESTIMONY PRESENTED BY VIOLA G. PETERSON, CHAIRPERSON, NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

VITA

NAME:

Viola G. Peterson - Miami Indian

ADDRESS:

(Home) 3289 Phillip
Flint, Michigan 48507
Phone: 313-767-6307

(Work) Carman-Ainsworth Resource Center
1020 West Bristol Road
Flint, Michigan 48507
Phone: 313-235-3565/0090

Married - 3 sons

Age - 50

Education - 3 years college - Associate in Arts Degree with honors.

WORK EXPERIENCE:

General Motors Corp., Flint, Michigan - Clerical
Carman-Ainsworth Community Schools - 3 years substitute teacher
5 years American Indian Speciali

PROFESSIONAL AND PERSONAL AFFILIATIONS:

1. Governor's Inter-State Indian Council - Board Member
   Vice-Chairperson
2. Genesee County Indian Education Committee - Chairperson
3. International Womens' Year - On original state coordinating committee
   Delegate to National Convention at Houston
4. Michigan Commission on Indian Affairs - Appointed Commissioner by the Governor -
   Elected Chairperson
5. Past president of Genesee Valley Indian Association, Inc.
6. Member of Saginaw Inter-Tribal Association, Inc.
7. Member of the North American Indian Woman's Association.
8. Member of the National Indian Education Association.
9. Serves on the Carman-Ainsworth School District Elementary and Secondary Social Studies Committee.
10. Was instrumental in the formation of Michigan Indian Legal Services.

11. Involved in the preservation of Indian art through the Flint Institute of Arts.

12. City of Flint - Mayor's Task Force for Flood Control and River Beautification.

13. American Indian Specialist - Carman-Ainsworth Community Schools Title IV - Part A Indian Education Program

14. Member of the Advisory Committee for Development of Videotapes of Great Lakes Indians History.

15. Past member of the State Advisory Committee for the United States Civil Rights Commission.

16. Member of Minority Advisory Committee for local TV stations.

17. Past Chairperson of Board of the Genesee Indian Center.

18. Past member of Michigan Indian Education Advisory Committee.

19. Member of Michigan Association of State and Federal Program Specialists.

20. Member of National Association of Administrators of State and Federal Program Specialists.

21. National Advisory Council on Indian Education - Chairperson 1978 -1979

22. Presented key to city by the mayor of the City of Flint, Michigan -- honored as community person making the most meaningful contribution to the total community for 1978 -- February 1979.

STATEMENT

AS CHAIRPERSON OF THE NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION (NACIE), I WOULD LIKE TO THANK CHAIRMAN CARL D. PERKINS FOR THE OPPORTUNITY TO TESTIFY AT THIS HEARING TODAY REGARDING THE IMPLEMENTATION OF THE PROVISIONS OF TITLE XI OF P.L. 95-561, THE INDIAN BASIC EDUCATION ACT, WHICH WAS ENACTED LAST YEAR.

FIRST, I WOULD LIKE TO RESTATE THE NACIE'S MOTION #2 OF APRIL 21, 1979, INDICATING OUR OPPOSITION TO THE PROPOSED TRANSFER OF THE BUREAU OF INDIAN AFFAIRS (BIA) EDUCATION PROGRAMS TO THE PROPOSED CABINET DEPARTMENT OF EDUCATION:

> "I MOVE THAT the position of the National Advisory Council on Indian Education shall be one of opposing the transfer of the Bureau of Indian Affairs Educational Programs to the proposed Department of Education."

ALTHOUGH THE "BIA TRANSFER PROVISION" WAS DELETED FROM H.R. 2444, THE HOUSE BILL TO ESTABLISH THE CABINET DEPARTMENT OF EDUCATION, OUR COUNCIL OPPOSES ANY FUTURE ATTEMPT TO TRANSFER THE BIA EDUCATION PROGRAMS, EITHER BY EXECUTIVE ORDER OF THE PRESIDENT OR BY FUTURE LEGISLATION OF THE CONGRESS. ONE OF OUR PRIMARY REASONS FOR THIS POSITION BY THE NACIE IS DIRECTLY RELATED TO P.L. 95-561. THE EXEMPLARY JOB WHICH MR. EARL BARLOW, DIRECTOR OF BIA EDUCATION IS CURRENTLY UNDERTAKING VIA HIS TASK FORCES, WE FEEL WILL GREATLY IMPROVE THE EFFECTIVENESS OF THE ADMINISTRATION OF INDIAN EDUCATION PROGRAMS WITHIN THE BIA. THE NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION WOULD LIKE TO PUBLICLY COMMEND MR. BARLOW AND THE TASK FORCES ON THEIR EXTRAORDINARY EFFORTS TO PROVIDE A "QUALITY

EDUCATION TO INDIAN CHILDREN." HOWEVER, WE FEEL THE TIME ALLOTTED TO MR. BARLOW TO EFFECT ADEQUATELY THESE NEEDED CHANGES IS INSUFFICIENT TO COMPLETE HIS MAJOR TASKS. MR. BARLOW SHOULD BE ALLOWED AT LEAST TWO YEARS TO CHANGE POSITIVELY THE ADMINISTRATION OF EDUCATIONAL PROGRAMS WITHIN THE BIA.

IN ADDITION TO THE PROVISION OF SUFFICIENT "TIME RESOURCES" NEEDED TO MAKE NEEDED CHANGES IN EDUCATIONAL PROGRAMS WITHIN THE BIA, MR. BARLOW MUST BE PROVIDED THE FOLLOWING ADDITIONAL RESOURCES TO INSURE THE ATTAINMENT OF THE MISSION WITH WHICH HE HAS BEEN CHARGED BY THE CONGRESS VIA P.L. 95-561:

(1) ADEQUATE COMMITMENT FROM THE TOP MANAGEMENT OF THE BIA;

(2) ADEQUATE STAFF CAPABILITY TO MAKE THE NECESSARY CHANGES; AND

(3) ADEQUATE FINANCIAL CAPABILITY TO MAKE THE NECESSARY CHANGES.

THE COMMITTEE SHOULD STRIVE TO INSURE THAT THE FOUR TYPES OF RESOURCES IDENTIFIED ABOVE (TIME RESOURCES, COMMITMENT, STAFF CAPABILITY, AND FINANCIAL CAPABILITY) ARE READILY AVAILABLE TO MR. BARLOW IN ORDER THAT HE WILL BE CAPABLE OF EFFECTIVELY IMPLEMENTING P.L. 95-561.

SECOND, I WOULD LIKE TO BRING TO THE ATTENTION OF THE COMMITTEE A NUMBER OF CONCERNS SPECIFICALLY RELATED TO THE INDIAN EDUCATION PROGRAMS UNDER THE INDIAN EDUCATION ACT, P.L. 92-318, AS AMENDED BY P.L. 95-561. AS YOU ARE AWARE, THE NACIE IS CHARGED WITH A NUMBER OF RESPONSIBILITIES SPECIFICALLY RELATED TO THE REVIEW OF ADMINISTRATION OF TITLE IV PROGRAMS UNDER TITLE IV OF THE INDIAN EDUCATION ACT, P.L. 92-318, LOCATED WITHIN THE OFFICE

OF INDIAN EDUCATION AT THE OFFICE OF EDUCATION.

THE NACIE HAS IDENTIFIED FOUR PROBLEMS WHICH ARE RELATED TO THE IMPLEMENTATION OF P.L. 95-561, INCLUDING THE FOLLOWING:

(1) A LACK OF ADEQUATE COMMUNICATION AND INDIAN COMMUNITY INVOLVEMENT IN THE DESIGN OF THE "INDIAN RESOURCE AND EVALUATION CENTERS" PROPOSED BY THE OFFICE OF INDIAN EDUCATION.

(2) A LACK OF ADEQUATE AND TIMELY INFORMATION PROVIDED TO THE NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION BY THE OFFICE OF INDIAN EDUCATION, REGARDING BOTH CURRENT AND NEW PROGRAMS, SUCH AS THE "INDIAN RESOURCE AND EVALUATION CENTERS," WHICH OUR COUNCIL HAS BEEN MANDATED BY THE CONGRESS TO REVIEW.

(3) THE ABSENCE OF A SEPARATE "LINE-ITEM BUDGET CATEGORY" FOR THE NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION SEPARATE AND DISTINCT FROM THE BUDGET OF THE OFFICE OF INDIAN EDUCATION AT THE OFFICE OF EDUCATION.

(4) THE RESTRICTIVE DEFINITION OF "INDIAN ELIGIBILITY" ADDED BY SECTION 1147, DATA COLLECTION, TO SECTION 453 OF THE INDIAN EDUCATION ACT WILL EXCLUDE INDIAN CHILDREN WHO ARE NOT FEDERALLY/RECOGNIZED OR WHO DO NOT HAVE ENROLLMENT NUMBERS. (3)

REGARDING THE FIRST PROBLEM IDENTIFIED ABOVE, IT IS APPROPRIATE THAT WE BRING TO THE ATTENTION OF THE COMMITTEE THE FINDINGS OF OUR TECHNICAL ASSISTANCE, RESEARCH, AND EVALUATION COMMITTEE AT HEARINGS HELD IN RENO, NEVADA ON JUNE 1-2, 1979. THE PURPOSE OF THE HEARING WAS TO COLLECT INPUT FROM INDIAN INDIVIDUALS AND ORGANIZATIONS REGARDING THE NEWLY PROPOSED "INDIAN EDUCATION RESOURCE AND EVALUATION CENTERS" PROPOSED BY THE OFFICE OF INDIAN EDUCATION (SEE: APPENDIX 1).

THE OVERWHELMING CONCERN OF INDIAN PRESENTORS WHO ATTENDED THE RENO HEARING WAS AN APPARENT LACK OF COMMUNICATION, OR MORE SPECIFICALLY INDIAN INPUT FROM THE FIELD RELATED TO THE PROPOSED

ESTABLISHMENT OF THE "INDIAN EDUCATION RESOURCE AND EVALUATION CENTERS" BETWEEN THE OFFICE OF INDIAN EDUCAITON AND THE INDIAN COMMUNITY WHICH WILL BE AFFECTED BY THE NEW CENTERS. THE CONCERNS OF THE INDIAN PRESENTORS IN ATTENDANCE (SEE: APPENDIX 2), WAS THAT THEY HAD NOT HAD THE OPPORTUNITY TO PARTICIPATE ACTIVELY IN THE DESING OF THE PROPOSED CENTERS. THE NACIE STAFF IS CURRENTLY PREPARING A LETTER TO DR. GERALD GIPP, DEPUTY COMMISSIONER, OFFICE OF INDIAN EDUCATION, BASED UPON TRANSCRIPTION OF TESTIMONY RECEIVED BY OUR TECHNICAL ASSISTANCE, RESEARCH, AND EVALUATION COMMITTEE, WHICH WILL IDENTIFY MANY OF THE CONCERNS OF THE INDIAN COMMUNITY REGARDING THE PROPOSED "INDIAN RESOURCE AND EVALUATION CENTERS." AFTER REVIEW BY THE FULL NACIE COUNCIL AT OUR UPCOMING MEETING SCHEDULED THIS COMING JULY, THAT LETTER WILL BE FORWARDED TO DR. GERALD GIPP, DEPUTY COMMISSIONER, OIE. HOWEVER, AT LEAST FIVE MAJOR RECOMMENDATIONS WERE SUGGESTED TO THE OFFICE OF INDIAN EDUCATION BY THE INDIAN PARTICIPANTS AT THE RENO HEARING:

(1) THE OFFICE OF INDIAN EDUCATION SHOULD ESTABLISH A PROCESS WHICH WILL INSURE INDIAN INPUT INTO THE DESIGN OF THE "INDIAN RESOURCE AND EVALUATION CENTERS," EITHER BY THE PUBLISHING OF RULES AND REGULATIONS OR ANOTHER SATISFACTORY PROCEDURE.

(2) THE OFFICE OF INDIAN EDUCATION SHOULD ACTIVELY INVOLVE THE INDIAN COMMUNITY IN A WORKING DEFINITION OF THE PROPOSED "INDIAN RESOURCE AND EVALUATION CENTERS."

(3) THE OFFICE OF INDIAN EDUCATION SHOULD WORK WITH THE INDIAN COMMUNITY TO INVESTIGATE OTHER OPTIONS FOR THE DELIVERY OF TECHNICAL ASSISTANCE TO TITLE IV PROGRAMS IN ADDITION TO THE CENTER CONCEPT.

(4) THE INDIAN PERSONNEL STAFFING EXISTING TECHNICAL ASSISTANCE CENTERS SHOULD BE UTILIZED AS A VALUABLE RESOURCE IN ALL PLANNING FOR THE ESTABLISHMENT OF FUTURE "INDIAN RESOURCE AND EVALUATION CENTERS."

(5) THE OFFICE OF INDIAN EDUCATION SHOULD INVESTIGATE THE MANNER IN WHICH TECHNICAL ASSISTANCE IS PROVIDED BY OTHER AGENCIES OF GOVERNMENT IN ORDER TO EXPAND THE LIST OF OPTIONS AVAILABLE TO THE INDIAN COMMUNITY.

THE FULL LIST OF CONCERNS OF INDIAN PRESENTORS ATTENDING THE RENO HEARING IS TOO LENGTHY TO BE IDENTIFIED HERE. HOWEVER, OUR COUNCIL WOULD BE HAPPY TO PROVIDE THE COMMITTEE WITH A COPY OF OUR PAPER TO DR. GERALD GIPP, AT THE TIME IT HAS BEEN COMPLETED AND REVIEWED BY OUR FULL COUNCIL.

A SECOND PROBLEM, RELATED VERY CLOSELY TO THE ONE IDENTIFIED ABOVE, MAY BE CHARACTERIZED AS A LACK OF COMMUNICATIONS BETWEEN THE NACIE AND THE OIE. AGAIN, THE PROPOSED "INDIAN RESOURCE AND EVALUATION CENTERS" OFFER INSIGHT INTO THIS PROBLEM, SINCE OUR COUNCIL HAS RECEIVED MINIMAL INFORMATION RELATED TO THESE PROPOSED NEW CENTERS. CERTAINLY, IT WOULD BE FAR BETTER IF THE NACIE HAD BEEN ACTIVELY INVOLVED IN THE PLANNING FOR THE CENTERS AT THE OUTSET OF THEIR DISCUSSION. HOWEVER, THE NEEDED INFORMATION HAS NOT BEEN SHARED WITH US ON A TIMELY BASIS, AND HAS THEREFORE MINIMIZED OUR OFFICIAL INPUT INTO THE DESIGN OF THE CENTERS.

THIS HAS UNFORTUNATELY RESULTED IN A COMMUNCATIONS GAP BETWEEN THE OFFICE OF INDIAN EDUCATION AND OUR COUNCIL. FOR INSTANCE, THE FIRST FULL LOOK AT OIE'S PLANS FOR THE "INDIAN RESOURCE AND EVALUATION CENTERS" BY THE NACIE WAS AFTER THEY WERE PUBLISHED IN THE 1980 BUDGET JUSTIFICATION, PART 2, OF THE DEPARTMENT OF THE INTERIOR (DEPARTMENT OF INTERIOR AND RELATED AGENCIES APPROPRIATIONS FOR 1980-- HEARINGS BEFORE A SUBCOMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, 96TH CONGRESS, FIRST SESSION, PAGES 930-931, INDIAN EDUCATION RESOURCE AND EVALUATION CENTERS). SMALL WONDER

THAT QUESTIONS ARE BEING ASKED BY THE INDIAN PEOPLE AND COMMUNITY.

THE THIRD PROBLEM IDENTIFIED ABOVE REGARDED THE NEED FOR A "SEPARATE LINE-ITEM BUDGET CATEGORY" FOR THE NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION, DISTANT FROM THAT OF THE OFFICE OF INDIAN EDUCATION, AND WAS INITIALLY BROUGHT TO THE ATTENTION OF THE CONGRESS AT THE APPROPRIATIONS HEARINGS HELD BEFORE THE UNITED STATES SENATE AND THE UNITED STATES HOUSE OF REPRESENTATIVES EARLIER THIS YEAR. ALL THE PRESIDENTIAL COUNCILS HAVE ALREADY BEEN DESIGNATED SEPARATE AGENCIES BY THE GOVERNMENT ACCOUNTING OFFICE, SEPARATE AND DISTINCT FROM HEW (SEE: APPENDIX 3). SINCE WE ARE AN AGENCY SEPARATE FROM THE OIE, WE MUST RESERVE FULL DISCRETION OVER BUDGETARY MATTERS FOR OUR COUNCIL. AT PRESENT THE OIE HAS SOME DISCRETION OVER OUR BUDGET, WHICH WE FEEL COMPROMISES OUR AUTONOMY NEEDED FOR THE REVIEW OF INDIAN EDUCATION ACT PROGRAMS UNDER TITLE IV, P.L. 92-318, AS AMENDED BY P.L. 95-561. UNTIL NACIE CAN RECEIVE ITS OWN LINE-ITEM BUDGET - SEPARATE FROM THE OIE ADMINISTRATION BUDGET - OUR 15 MEMBER PRESIDENTIALLY APPOINTED COUNCIL CANNOT HOPE TO DO MORE THAN PIECE MEAL EVALUATION, AND DATA COLLECTION FOR YOUR INFORMATION AND DECISION MAKING. "ACCOUNTABILITY" IS THE KEY WORD HERE AND I ASK THE QUESTION - "TO WHOM IS OIE ACCOUNTABLE?" AS INDIAN PEOPLE VITALLY INTERESTED IN THE EDUCATION OF ALL OUR PEOPLE, THIS IS FRUSTATING TO SAY THE LEAST.

THE FOURTH PROBLEM IDENTIFIED ABOVE PERTAINS TO P.L. 95-561, SECTION 1148, DATA COLLECTION ON PAGE 92 STAT 2331, WHICH WOULD AMEND SECTION 453 OF THE INDIAN EDUCATION ACT BY INSERTING SUBSECTION (b), AS ADDED BY SECTION 1147 (SEE: APPENDIX 4). IF

SECTION 1148 BECOMES A PERMANENT PART OF P.L. 95-561, YOU MAY REST ASSURED THAT A GREAT NUMBER OF INDIAN STUDENTS IN URBAN AND RURAL AREAS WILL BE INELIGIBLE. THIS IS DUE TO THE FACT THAT MANY INDIANS ARE NOT MEMBERS OF THE FEDERALLY RECOGNIZED TRIBES AND THEREFORE MANY DO NOT HAVE ENROLLMENT NUMBERS.

IN CONCLUSION, I WOULD LIKE TO AGAIN THANK THE CHAIRMAN OF THE SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION FOR THE OPPORTUNITY TO APPEAR BEFORE THE COMMITTEE TODAY. I WOULD BE HAPPY TO RESPOND TO ANY QUESTIONS WHICH YOU MAY HAVE REGARDING MY TESTIMONY.

APPENDIX ONE

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS FOR 1980

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

FIRST SESSION

SUBCOMMITTEE ON THE DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

SIDNEY R. YATES, Illinois, *Chairman*

GUNN McKAY, Utah
CLARENCE D. LONG, Maryland
ROBERT B. DUNCAN, Oregon
JOHN P. MURTHA, Pennsylvania
NORMAN D. DICKS, Washington
BO GINN, Georgia

JOSEPH M. McDADE, Pennsylvania
RALPH S. REGULA, Ohio
WILLIAM L. ARMSTRONG, Colorado

FREDERICK G. MOHRMAN, BYRON S. NIELSON, and ROBERT S. KRIPOWICZ, *Staff Assistants*

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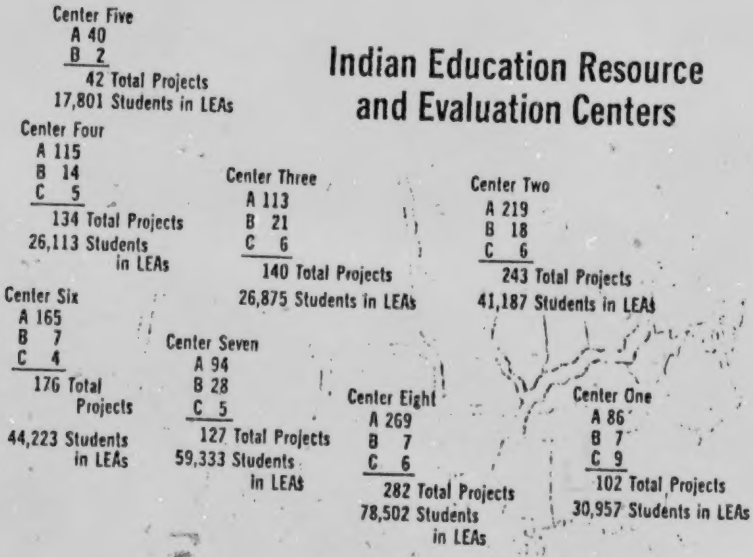
Resource and evaluation centers -- $2,300,000, a comparable increase of $1,800,000 from the 1979 appropriation is requested for Section 1005(e). The funds will be used to establish up to six regional resource and evaluation centers, designed to provide specialized technical services to Indian Education Act grantees. In 1981, two more centers will be established for a total of eight centers covering all States and projects. The purpose of these centers is to address a series of pervasive and critical project administration problems encountered by most Indian Education Act grantees. The Indian education resource and evaluation centers will perform the following functions: (a) assist grantees to design and conduct evaluations and to develop measurable program objectives; (b) conduct evaluations at individual project sites in order to assist project managers by providing information on how to improve project operations; (c) provide technical assistance on problems of project management and program design; and (d) disseminate information on materials and techniques proven effective.

These centers will build upon the experience resulting from five small-scale technical assistance projects funded in the past, two of which will be continued in fiscal year 1979 for $700,000. These contracts have permitted guidance to a small number of grantees on a pilot basis, while the eight centers planned will provide complete coverage of all funded projects under Parts A, B, and C. With the establishment of the regional centers, Indian educators and administrators have the means to significantly improve operation of their own education programs. The service area of each center is shown on the following page.

Note that an amount of $500,000 from Part C of the Indian Education Act will be used in 1980 to provide additional support to the centers for services to Indian education projects for adults.


Indian Education Resource and Evaluation Centers
Center Five
A 40
B 2
42 Total Projects
17,801 Students in LEAs
Center Four
A 115
B 14
C 5
134 Total Projects
26,113 Students in LEAs
Center Three
A 113
B 21
C 6
140 Total Projects
26,875 Students in LEAs
Center Two
A 219
B 18
C 6
243 Total Projects
41,187 Students in LEAs
Center Six
A 165
B 7
C 4
176 Total Projects
44,223 Students in LEAs
Center Seven
A 94
B 28
C 5
127 Total Projects
59,333 Students in LEAs
Center Eight
A 269
B 7
C 6
282 Total Projects
78,502 Students in LEAs
Center One
A 86
B 7
C 9
102 Total Projects
30,957 Students in LEAs

APPENDIX TWO

PARTICIPANTS LIST
TECHNICAL ASSISTANCE, RESEARCH & EVALUATION COMMITTEE
Reno, Nevada
June 1, 1979

NACIE COUNCIL MEMBERS:

Michael P. Doss, Executive Director, NACIE
Thomas Thompson, Chairman, TAR&EC
Violet Rau
Robert Swan
Maxine Edmo
Earl Oxendine

INDIVIDUALS:

Tom Abel, Chairman, IRA Council, Box 188, Craig, AK, 9921
Wayne Amiotte, Executive Director, South Dakota Indian Education Association
Sam Arquero, Five Pueblo Indian Community member, P.O. Box 59, Chochiti, NM, 87041
Evelyn Banublos, Teacher, Committee Person, Title IV, Part A
Benjamin Barney, Actitity Director, Rock Point Community School, Chinle, AZ, 86503
Willard Bill, Director, Indian Education, University of Washington, Seattle, WA
Carol Bitsai, Administrative Asst, A School for Me, Inc, Tohatchi, NM
Iliene Cape, Title IV, Part A, P.O. Box 70, Tollhouse, CA, 93667
Steve Cape, Student Member, Parent Committee, 33326 N. Lodgero, Tollhouse, CA, 93667
Lupe Cole, TIYC, Inc Board of Director, 716 S. Troost, Tulsa, OK
Mary Jo Cole, Education Chairperson, Cherokee Nation of Oklahoma, P.O. Box 753, Tahlequah, OK 74464
Floyd Collins, Draftman, Pyramid Lake School, Pyramid Lake School Board, P.O. Box 116, Wadsworth, NV, 98442
Shelby J. Conley, Title IV, Part C, Project Director, Cumberland County Association for Indian People, Rt #2, Box 2B, Fayetteville, NC, 28301
Shayne Del Chohen, Consultant-Reno Sparks Tribal, A School for Me, Inc, Tohatchi, Inc
Joe Dupris, Executive Director, Coalition of Indian Controlled School Boards, 511 16th Street, Denver, CO
Deanna Espina, Project Specialist, San Lorenzo School District, Title IV, Part A
Tawana Fairbanks, Education Admn, Native American Center, 1335 W. Sheridan, Oklahoma City, OK,73106
Frank Garcia, Director, Title IV, Alum Rock School District
Robert F. Gwilliam, Director, Planning & Development, Utah Navajo Development Council, Box 827, Blanding, UT, 84511
Lou Hartley, Vice Chairperson, TIYC Board, 716 St. Troost, Tulsa, OK
Art Hill, Cora Business Comm, C & A Tribes of Oklahoma, Box 28, Choncho, OK, 73022
Paulette Kelly, Teacher, Committee Person, Title IV, Part A. Sacramento City School District, 1619 N Street, Sacramento, CA, 95827
Harriet LaSarge, Chairperson, Education Committee, St. Croix Chippewas, Webster, WI
Jan M. Laitos, Special Assistant to President-Control Data Corp, 222 Disk Drive, Rapid City, SD, 57701
Gay Lawrence, Education Coordinator, National Indian Training And Research Center, Tempe, AZ
Joe McDonald, President, Affiliated Tribes of NW Indians
Carol J. Minugh, Project Director, National Center for Research in Vocational Education, 1960 Kenny Road, Columbus, OH, 43210

Maryann Morrison, Librarian, LIEC member, St. Croix Chippewa, Webster, WI, 54893
Lois Olson, Project Director, Parent Committee Education, Minnesota Chippewa Tribe
Leva L. Oustigoff, Sr., LIEC member, St. Croix Chippewa, Webster, WI, 54893
Thelma Pruitt, Literacy Coordinator, Title IV, Part C, CCAIP, Rt #2, Box 2B,
Fayetteville, NC, 28301
Joyce Reyes, Technical Assistance Director, UIATF, Seattle, WA
Donna Rhodes, Chairperson, TIYC, Inc, 716 S. Troost, Tulsa, OK
John Smith, Field Specialist, Technical Assistance, CICSB
Benny Starr, Chairperson, Five Pueblo Indian Community, Santo Domingo Pueblo, NM 87052
Ernest Tenirio, Five Pueblo Indian Education Director, P.O. Box 1083, Bernallilo, NM
Laura B. Tohe, Project Director, NMIEBoard of Regents, Title IV, Box 6507, Station B,
Albuquerque, NM, 87197
Maurice Twiss, Fed Prog Coordinator, Batesland, SD
Juanita West, Editor, Indian Education Record of Oklahoma, TIYC, Tulsa, OK
George Youckton, Education Coordinator, Quinault Tribe, Toholah, WA, 98587

APPENDIX THREE

MEMORANDUM

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION

May 3, 1979

RECEIVED 5-4-79

TO: Martha Brooks
Deputy Director, Division of Personnel
Administration

FROM: Committee Management Officer

Thank you for giving me the opportunity to provide information for the Office of Education's response to Mr. Hamilton's April 17th memorandum on the Ethnics in Government Act. Mr. Hamilton wants information on two points: 1) recommendations as to which positions should be exempted from the "senior employee" designation and 2) recommendations for the designation of "separate agencies."

As I wrote earlier to Lois Hartman (see attachment A), I believe that the Executive Directors of our Presidential advisory councils should be exempted from the "senior employee" designation as defined in the regulations issued by the Office of Government Ethnics. A copy of my memo went to each Executive Director and as I have heard only concurrences with my proposal, I am recommending it again.

Specifically, the employees of statutory Presidentially-appointed advisory councils, defined in and subject to Part D of the General Education Provisions Act, who would otherwise be classified "senior employees" because of their rank and/or salary should be exempted from this designation. The Councils are advisory in nature and are neither policy-making nor operational. Likewise, their employees are not involved in policy-making or operational activities. I am proposing that the positions be exempted as a class, but for your information, a current list of Executive Directors is attached (B). On the second point, the Presidential councils have already been designated separate agencies by GAO (see attachment C). They are quite clearly separate and distinct from HEW. Please let me know if you need any further information.

A.V.B.
Ann V. Bailey

2 Enclosures

cc: PAC Executive Officers without attachments
Jim Pickman

"(4) other options for changes in the terms of such definition and an evaluation of the consequences of such changes, together with supporting data;

"(5) recommendations with respect to criteria for use by the Commissioner under the rulemaking authority contained in clause (4) of such subsection.".

DATA COLLECTION

SEC. 1148. Section 453 of the Indian Education Act is amended by inserting after subsection (b), as added by section 1147: 20 USC 1221h.

"(c) In establishing a child's eligibility for entitlement under part A of this Act, the Commissioner shall request at least the following information on the student eligibility form:

"(1) the name of the tribe, band, or other organized group of Indians with which the applicant claims membership, along with the enrollment number establishing membership (where applicable), and the name and address of the organization which has updated and accurate membership data for such tribe, band, or other organized group of Indians; or, if the child is not a member of a tribe, band, or other organized group of Indians, the student eligibility form shall bear the name, the enrollment number (where applicable) and the organization (and address thereof) responsible for maintaining updated and accurate membership roles of any of the applicant's parents or grandparents, from whom the applicant claims eligibility;

"(2) whether the tribe, band, or other organized group of Indians with which the applicant, his parents, or grandparents claim membership are federally recognized;

"(3) the name and address of the parent or legal guardian;

"(4) the signature of the parent or legal guardian verifying the accuracy of the information supplied; and

"(5) any other information which the Secretary deems necessary to provide an accurate program profile.".

PROGRAM MONITORING

SEC. 1149. (a) The Commissioner shall establish a method of auditing on an annual basis a sample of not less than one-third of the total number of school districts receiving funds under part A of the Indian Education Act, and shall report to the Congress his findings. Annual audit, report to Congress. 20 USC 241aa note.

(b) Any falsification of information provided on the local educational agency application for funds under part A of such Act is punishable by impoundment of unused funds and an ineligibility for receiving any future entitlement under such Act. Information falsification.

(c) Any falsification of information provided on the student eligibility form for funds under part A of such Act is punishable by making that individual ineligible for receiving any future entitlement under the Act.

AMENDMENTS TO TITLE X OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 1150. (a) Section 1005(c)(1)(E) of the Elementary and Secondary Education Act of 1965, as redesignated by section 801 of this Act, is amended by inserting "and gifted and talented Indian children" after "handicapped". 20 USC 3385.

DRAFT

PART A, TITLE IV, PUBLIC LAW 92-318

INDIAN STUDENT ENROLLMENT CERTIFICATION - INDIVIDUAL

For the purposes of applying for a grant under Title IV, Part A of the Indian Education Act of 1972, it is necessary to identify the number of Indian children enrolled in the School District. Completion of this form is required for student eligibility.

Any child meeting the following definition from Title IV, Part A of the Indian Education Act of 1972 (Public Law 92-318 as amended) is eligible to be served by this program:

Individuals of Indian descent are defined as follows: "Any individual who (1) is a member of a tribe, band, or other organized group of Indians, including those tribes, band, or groups terminated since 1940 and those recognized by the State in which they resid or who is a descendant, in the first o second degree, of any such member, or (2) is considered by the Secretary of the Interior to be an Indian for any purpose, or (3) is an Eskimo or Aleut or orther Alaskan Native."

As the MINIMUM requirement for eligibility, the student must have at least one (1) grandparent who is a tribal member as defined above.

Name(s) of eligible child (children) ____________

Address ____________ Phone #____________
Street
____
City State Zip Code

I. Tribal Information

Please indicate the tribal member through whom your child is eligible by checking the appropriate box and answer the questions below for that person

☐ child himself/herself ☐ parent (ancestor, 1st degree) ☐ grandparent (ancestor, 2nd degree)

1. Name of the tribe, band, or other organized group of Indians ____________

2. The tribe, band or other organized group is

☒ Federally ☒ Terminated ☒ Non-federally recognized - Need [illegible]

n. ☒ Alaskan ☒ State recognized, by State of ____________

☐ Other organized group

3. Name and address of the tribal organization which maintains membership data for the tribe, band, or group. if Known

Name of tribal organization ______________________

Address ______________________

____

~~a. Membership Number (where applicable) ______________~~

~~This number is an ☐ enrollment number ☐ allotment number~~

~~☐ other (explain) ______________~~

~~b. ☐ there is no such organization. If you check this block please explain how the person indicated above is considered to be a tribal member.~~

II. School Information

Indiv. school or School dist.?

Please print the name and address of the (public school your child now attends.)

Name ______________________ Why?

~~Address~~ ______________________

____

Grade ______________

III. Parent Information

Name(s) of eligible child (children) ______________________

Address ______________________ Same as signing pt.?

____

Is the person signing the form the

☐ natural parent or ☐ acting in place of the parent (in loco parentis)
if acting for the parent are you the ☐ legal guardian ☐ foster parent
☐ other (please explain)

This signature certifies that the information given above is accurate and true. It further indicates my consent to release this form to the Indian Parent Comm[illegible] for review.

Signature of Parent ______________________ Date ______________
(or person acting in loco parentis)

Address ______________________________

____

LEA GUIDELINES FOR INDIAN STUDENT ENROLLMENT CERTIFICATION

1. No child may be counted for purposes of determining the amount of a grant unless an individual form OE 506 signed by the parent (or person in loco parentis) is obtained and kept by the LEA. The tribe, band, or group affiliation must be provided.

2. As long as the child is enrolled in the LEA, this form, once reviewed by the Parent Committee, will be considered sufficient for counts in subsequent years. However, parents should report any change in status to the LEA.

3. Section 1149 (e) of P.L. 95-561 provides that "Any falsification of information provided on the student eligibility form for funds under Part A of such (the Indian Education Act) is punishable by making that individual ineligible for receiving any future entitlement under the Act."

PART A, TITLE IV, PUBLIC LAW 92-318

INDIAN STUDENT COUNT - LEA TOTALS

NAME OF SCHOOL DISTRICT (include NUMBER)	STREET ADDRESS	
	CITY AND STATE	ZIP CODE

Please list below from the 506 forms on file in the district the number of students who are from tribes which are

Federally recognized ____

Terminated ____

Non-Federally recognized ____

Alaskan ____

State recognized ____

Other organized groups ____

TOTAL NUMBER OF ELIGIBLE INDIAN STUDENTS →	
TOTAL NUMBER OF STUDENTS ENROLLED IN THE DISTRICT →	

We certify that the above count represents the number of Indian students enrolled in the public schools of this school district for which we have Individual Student Enrollment forms on file. It is understood that these figures will be used to gain and expend Federal funds and that they are subject to audits by Federal officials.

TYPE OR PRINT NAME OF PARENT COMMITTEE CHAIRPERSON	SIGNATURE OF PARENT COMMITTEE CHAIRPERSON	DATE
TYPE OR PRINT NAME AND TITLE OF AUTHORIZED LEA REPRESENTATIVE	SIGNATURE OF AUTHORIZED LEA REPRESENTATIVE	DATE

GUIDELINES FOR THIS FORM - OE 506-1

1. **The LEA will maintain the 506 forms "Indian Student Enrollment Certification - Individual" which have been reviewed by the Parent Committee, and keep a copy of this record as long as the student remains in school.**

2. The LEA will compile the appropriate information from the individual forms (OE 506) and complete OE 506 - 1 Indian Student Count, LEA Totals. Forms will be reviewed to make sure each student counted is currently enrolled in the LEA. Please note that the chairperson of the Indian Parent Committee must sign this form.

3. The LEA will submit one copy of this form to the SEA for verification.

4. Section 1149 (b) of Public Law 95-561 States "Any falsification of information provided on the local educational agency application for funds under Part A of the Indian Education Act is punishable by impoundment of unused funds and an ineligibility for receiving any future entitlement under such Act." This form is an integral part of such application for funds since the entitlement is computed on the basis of the information supplied on this form.

Mr. LOVESEE. With respect to the problems, I think you have adequately covered at least one or two—certainly more than I originally anticipated the question would occasion. However, I think it is excellent to have in the record. But the question comes back to the restrictive definition of Indian eligibility. That is one of the issues that has been brought to the committee's attention, and again I just want to—perhaps I won't ask a question, but just simply say I believe the reason for that section was to collect data. Definition of Indian eligibility with respect to any program, especially title IV, is a matter for congressional scrutiny and input from many individuals prior to any change, and I would hope that if any information comes to your attention that the Office of Indian Education intends to bypass that through regulation, that it would be brought immediately to our attention.

Ms. PETERSON. I have a paper with me. It is a copy. It, too, was supposed to have been confidential, such as the resource and evaluation centers——

Mr. KILDEE. The security system is not very good over there.

Ms. PETERSON. When you get Indian people tracking a problem, they will find it.

Mr. LOVESEE. If we may, we can make this part of the transcript.

Ms. PETERSON. Yes, and there are some remarks on there, too, that perhaps should be——

Mr. KILDEE. Annotated?

Ms. PETERSON. Yes, deleted. But that is the document, and these are rumors. People are calling me about rumors. Is this going to be so? And what should we do? How should we do it? And here I will say again, Dr. Doss is as close as his phone. He has gone over there and asked what should I know, and this is being purported to be the document that will be used for eligibility this fall.

Have you seen that, may I ask?

Mr. LOVESEE. No, I have not.

Mr. KILDEE. I have not seen it, either.

Mr. LOVESEE. For point of clarification, may I say we will look into it from the standpoint of committee rulings, but inasmuch as this has not been released by the particular agency, I suggest to the chairman, that a final decision on inclusion in the published record will have to await looking into the rules. However, it will become part of the file.

Mr. Kildee. Yes, it will be part of the file, but we will have to check with the full committee on that.

Mr. Peterson. All right. Thank you.

The rest of my testimony I will just submit for the record. I have two or three other things that I would like to state at this time.

Our rules and regulations committee of NACIE held a meeting in Reno, and they wanted to have some public input into this regarding these resource and evaluation centers. As soon as we found out about it, then certainly at least we could do that much to bring it to Indian country.

Dr. Gipp was invited, but he didn't come.

Mr. Kildee. Did you telephone him?

Ms. Peterson. I left that up to Dr. Doss.

Dr. Doss. Three times.

Ms. Peterson. Yes; three times. Anyhow, he was invited. And these resource and evaluation centers—he had told us in our meeting that he preferred not to call them technical assistance centers, for whatever reason that he preferred the resource and evaluation centers—and I personally want to object to funding being put through the State for this. I am not quite so sure about the universities, but I believe that the States are not doing that good a job on educating the children of the State; therefore, I believe it would just create another layer of bureaucracy; there would be more administrative funds that would not be going to the Indian people, and I think the Indian people are more than qualified; the Indian organizations, groups, tribes, are more than qualified to provide the resource and evaluation centers.

The universities, I am very dubious about, because we have a university there in Michigan which is adjacent to a reservation, which is Central Michigan University, and has never done one thing historically or educationally for the Indian people. Therefore, I would object to the universities that I know about receiving funding.

I think again that would be a point of where the money would just probably go out there, and it wouldn't serve the Indian people. I think we can make our own decisions on that.

Mr. Lovesee. With the chairman's permission; with respect to that, may I call the witness' attention and, at the same time, the record's attention, to section 7(b) of Public Law 93-638, which does require Indian preference from the standpoint of those contracts.

Ms. Peterson. It does provide.

Mr. Lovesee. Yes. And I detect a question on the part of at least one witness as to the applicability of that?

Mr. Dupris. As we understand, that is still a question which has not been resolved in the Office of Indian Education. There is still a question whether rules and regulations will even be put together formulating how these centers will work and who the contracts will go to, so it is still possible to perhaps evade Indian preference through sole source or other mechanisms, and if you will note that moneys up to 15 percent of whatever is appropriated can be permissively given out as such, and in a sole-source arrangement like that, you could say 15 percent would be given directly to a State or university without any violation of the intent.

As we understand, the $8 million has not yet been appropriated; only $6 million has been requested, and perhaps less than that will eventually be appropriated, so when you take 15 percent of that and give it to a State or a series of States, that significantly reduces the amount of money for actually Indian preference items.

Also, we have been told in conversations starting in last year, October of last year, that this new procedure being put forth may not involve or require preference points of any sort being given to Indian organizations, because it is a contracting arrangement and now there are not going to be any rules and regulations.

You see, RFP's are being determined nonreviewable Indian people, since they don't have to publish the RFP's for comments; therefore, anything could be put in the RFP, and it stands, as it is final. So the rule can be used that RFP design can be used to frustrate the intent of Congress, the intent of self-determination, and so forth. There will not be rules and regulations as we have known it in the past, as such.

Mr. **Lovesee**. Several points of clarification: To my best information approximately $3 million was requested for the resource centers.

Second of all, just for the purpose of the record, I believe, Mr. Chairman, we should submit section 7 and allow those who would read the record to make some determination on their own as well as perhaps pursuing that with the Office of Indian Education.

Mr. **Kildee**. It will be made a part of the record.

Mr. **Durpris**. If the Chair will permit, we also presented testimony to NACIE in Reno, and we are in the process of finalizing that draft statement, and we would like to submit that to the record related to this issue, and it is not lengthy, and it includes the court orders that we have already provided.

Mr. **Kildee**. That will be made a part of the record, too, if you submit it in a timely fashion.

Ms. **Peterson**. I do truly believe that the Government receives the most mileage for its dollars with every dollar that is put into Indian education. The Indian people are used to making money stretch, so I really believe that we haven't heard enough about the successes. We have today heard many of the complaints and problems, but we, too, shall work those out in the days ahead with good will on many peoples' part, but there are many successes in Indian education. We are educating more people at the university level, although not enough. We are improving the dropout rate, though not enough. We are aware. We are teaching parents, and that is where it is, is to get the Indian parents involved in their children's education. We are making them feel comfortable to walk into a school building. Any parent is intimidated by a school or university structure, so we are getting someplace, but it has been a struggle every step of the way, and we are going to keep on struggling. We have been doing this for many years, and we are teaching our young people how to actively work within the structure.

One more thing I would like to say is someplace at one of our meetings we were told that the programs would receive funding on a 3-year basis, multiyear funding, I guess it is called; so the programs who would submit proposals, the part A programs, particularly, who would submit proposals this coming February, would then be funded for 3 years.

I have not seen that in writing, but I have been told that by OIE. I would feel much more comfortable if I could see it in writing because when we are talking about paperwork, this is diluting the effect of the dollars that are going to LEAA's and other programs, because as soon as you are into your programs, you have to begin then to prepare it. It is like someone coming up for election every year; you just get elected and then you have to begin your campaign, and it is the same way with these programs.

And we could save many, many hours of Indian parents and the meetings, and it would give us more time for evaluation, and for the programs and save the money, itself. And every year a school district or whoever has to submit all of these assurances, and, of course, most programs do have bylaws, but now it is required, which is fine, but why just keep printing these over?

Our proposal is probably 2 inches thick. We submit three copies of that, and most of that looks like filler. It is unnecessary. It does not get to the heart of the program. So I think with the 3-year funding of all the part A programs, then we could tend to the business of educating the children and get better use out of our money there; and carryover funds also are needed in the part A programs so that at the end of the year—because in the school process, the budgeting that has to come through the LEAA, it takes so long, there is about a 30- to 90-day lag in most of the computer printouts. It just comes through the intermediate district. So if we would have a carryover, then we could allocate our funds better on a more even basis.

Mr. **Kildee**. Thank you very much, Ms. Peterson. It is always good to hear from you.

I have talked with you in Flint, in Lansing, and now in Washington.

Ms. **Peterson**. I appreciate your patience with us.

Mr. **Kildee**. Before we go on I want to make a clarification. I will attempt to get as many of the documents as possible printed as part of the record; however, the length of some will determine the committee's decision.

My own attempt will be to get as many as possible in, but I want to make that clear that the final decision is not in my hands.

Ms. Reyes?

STATEMENT OF JOYCE REYES, DIRECTOR OF TECHNICAL ASSISTANCE, UNITED INDIANS OF ALL TRIBES, SEATTLE, WASH.

Ms. **Reyes**. My name is Joyce Reyes, director of technical assistance program for United Indian Programs of All Tribes.

There are a few comments I would like to make before I get into the body of my testimony regarding what the previous speakers have addressed.

One of my comments is in regard to the concept of the information centers which has been drafted in the secret document that you have in your hands.

Joe Dupris spoke to the fact that he was not consulted as a technical assistance provider as to the contents. I would just like to share with you that we, as a technical assistant's provider organization, were not consulted either. I would like to keep the record open long enough so that I can present back to the committee some of my concerns regarding the document because I have not had an opportunity to review it.

Mr. **Kildee**. We will keep the record open. We would appreciate your getting them in as soon as possible.

Ms. **Reyes**. As regards the study for the definition of Indian, I think there may be confusion in the field as to what exactly the study is to do.

I think that that really needs to be clarified. In regards to the timeliness of information, I think the committee should understand the terrible position that it puts the technical assistance providers in, in terms of providing technical assistance to grantees and potential grantees when we don't have the information from the Office of Indian Education.

It is the same position that NACIE is put in. It not only makes the technical assistance programs look bad but it is also a reflection on the Office of Indian Education. I think that should be looked into.

I think that we have gone on record at least two times with the Office of Indian Education, not only to suggest a means by which we can share information but also a means by which the information can be disseminated. So I am sure that others have made the same effort as far as dissemination and gathering of information is concerned.

The bulk of my testimony today will deal with the proposed information centers. United Indians is a public nonprofit cultural educational foundation governed by a policy board of tribal representatives and Indian community leaders.

Our foundation has a variety of programs, including curriculum development, K-12, adult Indian education, adult basic education/general educational development training/vocational counseling, early childhood education, employment, arts and economic development.

Our foundation recently organized for the State of Washington an economic trade fair between Japan and Northwest Indian tribes, and we are currently organizing a similar trade mission to be held in Brussels, Belgium.

I mentioned this briefly to demonstrate to Congress that economic development thrusts are taking place simultaneously with the educational development of Indian communities. These activities are inter-related, with the long range goal, of course, being true self-determination.

Our technical assistance program receives funding through title IX, the Indian Education Act. We are funded to provide a variety of educational services in the States of Oregon, Washington, and Idaho to Indian tribes, organizations, and school districts.

Our scope is limited in those terms. Our services include proposal preparation, contract compliance, parent committee training, staff development training, information dissemination, program management, teacher in-service, and resource materials development. There are about 150 funded programs in our service area.

Title IX, the Indian Education Act, has been hailed as a landmark piece of legislation because it gives Indian communities responsibility for designing alternative educational models suited to their unique needs.

Through our work we have experienced the unlimited capacity for Indian communities to successfully design alternative educational models for their communities.

I would like to emphasize that this is something that should always be in the forefront of anyone's mind when they are making decisions as far as the program is concerned because working in the field as we have, we have seen many, many changes take place in terms of parent involvement, in terms of Indians becoming Indian educators, in terms of adult Indians returning to school and to training and thereby influencing not only their community but also their family structure.

So when we do talk about the Indian Education Act as being a landmark, when we are talking about models for Indian communities, herein lies the challenge to technical assistance centers such as ours as increasing demands are placed upon Indian organizations who provide comprehensive Indian educational services.

For this reason we are very concerned about the nature of the information centers, how they are going to be comprised, what they will be doing as it relates to evaluating programs, providing technical assistance and disemminating information. The design of the centers will have far-reaching influence on Indian education. It can either positively or negatively affect our programing depending on who controls the centers.

The amendments required by the enactment of Public Law 95-561(c)(1), section 1005(e) do not provide for either Indian preference in the selection of centers or for priority points for qualified Indian applicants. This is not consistent with the intent of the legislation or in keeping with Public Law 93-638. I realize counsel tried to clarify that earlier. I think our paranoia is—I stress this because we are paranoid about whether Indian health is going to prevail here or not, but——

Ms. Reyes [continuing]. One of our recommendations is that the UIATF technical assistance program information centers should be selected from those Indian tribes and organizations who have a personal investment in Indian education, and who will be committed to producing information useful and understandable to Indian communities. Indian tribes or organizations who can provide evidence of such an investment and commitment through previous program "track records" should be the competitors for the information centers.

That sounds like a very self-serving statement, and it is. I think one of the things that we need to pass on information about is that Indian communities have not only developed alternative education models but they have also developed technical assistance centers which have started from a grassroots level.

The demands as far as the sophistication of the types of information that you have to disseminate and the kinds of training and other sorts of demands made upon the role that you are required to play are great but there are out in the Indian country those organizations and tribes who have been able to meet that challenge. I think we should be allowed to continue to grow in that manner.

We strongly make that recommendation because it has been shown that research and evaluation is most relevant when it involves and is shared with the people directly affected. Indian tribes and organizations are the only entities who have the capacity to do this. Too often research on Indian education is done by outsiders for their own purposes, and the needs of the local Indian programs are not a priority.

The selection of information centers should not reinforce a dependency on non-Indian organizations for expertise. Tribes and Indian organizations who have expertise in providing technical assistance, evaluation, and dissemination services, should be given preference over agencies who may have potential for provision of such services but who lack actual experience.

Indian preference is an issue among tribes and Indian organizations. I think that has been thoroughly documented as other people have talked about the NACIE hearing around what some of the concerns were at that hearing. It is the recommendation of our technical assistance program that the information centers be selected from among Indian tribes and organizations who have the capacity to provide comprehensive educational services to Indian communities.

Indian applicants should be selected on the basis of not only their capacity to provide services but also their demonstrated knowledge of Indian education programs and their ability to broker services through cooperative agreements with other agencies and organizations.

At the NACIE subcommittee hearings there was concern expressed that the proposed centers will be university-based. The hearing testimony left no doubt that there are a number of Indian tribes and organizations who are against university-based information centers.

Mr. Joe McDonald, who represents the Flathead Tribe and the Affiliated Tribes of the Northwest Indians, stated that the Northwest tribes will be very angry if universities are selected instead of Indian tribes and organizations as information center sites.

Although many assume that only higher education institutions and State education agencies have many diverse capacities and resources, false assumptions have been made regarding their abilities to provide services to small communities. Centers without experience in providing services to Indian communities may not be able to make accurate and meaningful statements regarding the effectiveness of title IV programs.

Institutions outside of the Indian community will not have the insight to properly consider the unique aspects of a program designed for Indians. Many Indian tribes and organizations have developed resources, experience, and diverse training capacities in Indian education, and their inherent rapport with the programs should be a prime consideration.

The 1978 amendments do not provide for a specific review process or selection criteria for making contracts with potential information center applicants. Since controversy in the past has surrounded the competitive grants review process, it is our recommendation that a process be clearly defined with a clear indication of the work scope.

The 1978 amendments do not specify whether or not the information centers will be autonomous or coordinated with one another.

The centers should be coordinated since they will have to research and evaluate diverse Indian education programs. If they are autonomous, they will not be able to provide a national perspective on program effectiveness without national coordination.

If we are to look at present technical assistance services, autonomy has not proven to be beneficial to either the programs being served or to the technical assistance providers. We find that very often we reinvent the wheel or simultaneously invent the same wheel, in terms of materials, information disseminated and program design.

We urge the Congress to appropriate the entire authorization of $8 million for the information centers.

Mr. LOVESEE. With the chairman's permission: All through your statement you refer to contracts. You do not refer to grants other than when you speak of the grant review process, but that is with respect to the other grants as opposed to the resource centers.

Which would be preferable from the standpoint of your technical organization, a grant or contract?

Ms. REYES. Well, I have a hard time responding to that. At least with the grant review process there are rules and regulations and you understand what the charge is. At this time we don't know what that is going to be.

I have nothing to react to. I don't know what is in the minds of the Office of Indian Education. I could tell you yes, a grant or a contract would be desirable. But at this time I can't say that because I wouldn't know based on the information that I have from the Office of Indian Education because there is no information.

Mr. LOVESEE. One other question: You do make a very, very valid point about autonomy and coordination. Do you have any specific recommendations with respect to how coordination can be achieved?

Would that be the purview of one particular center which would coordinate the others or would there be one center for nothing but coordination?

Should that be handled out of OIE's central office. How would you see this taking place?

Ms. REYES. There are some recommendations from the NACIE meeting that there are models that we could possibly look at as workable. One of them was the teacher corps. I have not had a chance to review how that model works. So I am not prepared to answer that question.

I do know that for instance with Head Start you are required to have a policy review board for technical assistance centers. I am not sure how that has worked because I have just recently become aware of them. But I think there are some models that we might want to look at.

I am not sure whether one whole coordinating, one organization per tribe or entity, how that would work as far as the intent of the information centers is concerned. One thing that did come out of our NACIE hearing was that we need more time to sit down and brainstorm what we might see as a workable model. One of the things that we are doing is we are taking a look at what exists now rather than trying to design something that would really meet the intent of the legislation.

Mr. **Lovesee**. I am glad you brought that up. We will contact NACIE. We do want to get a transcript of those hearings anyway, especially on the staff level. We can clarify it at a later time.

Ms. **Peterson**. We will provide you with those.

Mr. **Dupris**. There is one point which impinges upon your question of grant or contract. Our organization has both types of operations going at the present time. A grant for technical assistance through the Office of Indian Education and a contract for law center which is race desegregation and assistance center.

Title IV of the Civil Rights Act of 1964 has a technical assistance center that goes out as a contract. However, they publish rules, regulations on how those are to be distributed, what criteria, what the basis of their awarding, et cetera. It is a contract.

The grant process also provides for that. In other words, there are rules, regulations, et cetera. However, there is a significant break in that overall OE process being offered by the Office of Indian Education based upon the philosophy that fewer rules the better. And that goes back to the Presidential requirements, et cetera.

It is mostly a smoke screen as seen at the present time. But there has been no explanation why there should not also be for the Office of Indian Education the same type of proceedings as are being used by the Office of Equal Educational Opportunity. So it is a unique process now being offered by Indian education.

So the question on grants or contracts must be reviewed in that uniqueness of not having any rules or regulations which would bind that office to accountability, itself, in how it provides for the granting of that.

For example, well, anyone who has testified here especially anyone who has criticized OIE in past circumstances, if we review the All Indian Pueblo Council special review, it puts themselves in jeopardy of never receiving a grant from that office again. I point that out.

We are willing to compete at any time and will and we will get grants because both Joyce's operation and our operation are quality operations and other Indian operations are quality. We will compete with anyone. However, that has not been the process in the Office of Indian Education as shown by the Pueblos.

So there are a number of things that need to be reviewed, even with a grant process or review team and our proposals. The process now instead of changing the numbers of a field reader is to appropriately select the field reader who will give you the proper numbers. Can you go back and look at the granting processes of the last 3 years and I think you will find significant discrepancies in the field readers? Those are issues.

Mr. **Lovesee**. Thank you. That is pertinent to a submission that was made earlier in the record.

Ms. **Reyes**. It is sort of ironic and it was pointed out also at the NACIE meeting which was a very good meeting, one of the things that the colleagues pointed out in their testimony at the NACIE hearing was the fact that we seem to have gone a complete circle as far as policies are concerned.

We have policies within the BIA now where we have Indian input and it is legislated and mandated and now we are over here with the Office of Indian Education where we are back asking questions that we just had to ask about the BIA.

Somehow or another this has to be resolved. There is only one other thing I would like to point out and that is the fact that this next coming year there are only going to be two projects that are funded to provide technical assistance through the NACIE to Indian projects.

That is the Coalition of Indian Controlled School Boards and our project. We will be in our last year of funding this next year. We anticipate that the pressure on our project is going to be even greater than it has been in the past due to the fact that there are only two of them.

Mr. Kildee. Thank you very much for your testimony.

[Ms. Reyes' full statement follows:]

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(Clallum / Makah)

OVERSIGHT HEARING TESTIMONY

REGARDING TITLE XI OF P.L. 95-561,

THE INDIAN BASIC EDUCATION ACT,

PART C -- INDIAN EDUCATION PROVISIONS

Prepared By: Joyce Reyes, Director
Technical Assistance Program

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U.I.A.T.F. is a public, non-profit cultural-educational foundation governed by a policy board of tribal representatives and Indian community leaders.

Our foundation has a variety of programs, including curriculum development (K-12), adult Indian education (Adult basic education/General Educational Development training/vocational counseling), early childhood education, employment, arts and economic development. Our foundation recently organized for the State of Washington an economic trade fair between Japan and Northwest Indian Tribes, and we are currently organizing a similar trade mission to be held in Brussels, Belgium. I mentioned this briefly to demonstrate to Congresss that economic development thrusts are taking place simultaneously with the educational development of Indian communities. These activities are inter-related, with the long range goal, of course, being true self-determination.

Our Technical Assistance Program receives funding through Title IV, the Indian Education Act. We are funded to provide a variety of educational services in the states of Oregon, Washington, and Idaho to Indian tribes, organizations and school districts. Our services include proposal preparation, contract compliance, parent committee training, staff development training, information dissemination, program management, teacher in-service, and resource materials development. Program services are provided through workshops, small group seminars, individual consultations and a brokering of services when required. There are about 150 funded programs (Title IV, Parts A, B, and C) and 47 Indian tribes in our service area.

Title IV, the Indian Education Act, has been hailed as a landmark piece of legislation because it gives Indian communities responsibility for designing alternative educational models suited to their unique needs. Through our work we have experienced the unlimited capacity for Indian communities to successfully design alternative educational models for their communities. Herein lies the challenge to technical assistance centers such as ours, as increasing demands are placed upon Indian organizations who provide comprehesnive Indian educational services. For this reason, much of our testimony today will address Title XI, P.L. 95-561, the Indian Basic Education Act, Part C, relating to establishing, on a regional basis, information centers to (A) evaluate programs, (B) provide technical assistance, and (C) disseminate information. The design of these proposed centers will have far-reaching influence on Indian education, either positively or negatively, depending upon the selection criteria.

The amendments required by the enactment of P.L. 95-561 (c) (1) Section 1005 (e) do not provide for either Indian preference in the selection of centers or for priority points for qualified Indian applicants. This is not consistent with the intent of the legislation or in keeping with P.L. 93-638, the Indian Self-Determination Act. It is the recommendation of the U.I.A.T.F. Technical Assistance Program that the information centers should be selected from those Indian tribes and organizations who have a personal investment in Indian education, and who will be committed to producing information useful and understandable to Indian communities.

Indian tribes or organizations who can provide evidence of such an investment and commitment through previous program "track records" should be the competitors for the information centers.

We strongly make this recommendation because it has been shown that research and evaluation is most relevant when it involves and is shared with the people directly affected. Indian tribes and organizations are the only entities who have the capacity to do this. Too often research on Indian education is done by "outsiders" for their own purposes, and the needs of the local Indian programs are not a priority. The selection of Information Centers should not reinforce a dependency on non-Indian organizations for expertise. Tribes and Indian organizations who have expertise in providing technical assistance, evaluation and dissemination services should be given preference over agencies who may have potential for provision of such services but who lack actual experience.

Indian preference is an issue among tribes and Indian organizations. At the recent National Advisory Council on Indian Education hearing conducted by the Technical Assistance, Research and Evaluation Committee held on June 1 - 2, 1979, in Reno, Nevada, there was unanimity among those tribes and Indian organizations presenting testimony that the information centers should be Indian-controlled.

It is the recommendation of Technical Assistance that the Information Centers be selected from among Indian tribes and organizations who have the capacity to provide comprehensive educational services to Indian communities. Indian applicants should be selected on the basis of not only their capacity to provide services but also their demonstrated knowledge of Indian education programs and their ability to broker services through cooperative agreements with other agencies and organizations.

At the N.A.C.I.E. subcommittee hearing there was concern expressed that the proposed centers will be university-based. The hearing testimony left no doubt that there are a number of Indian tribes and organizations who are against university-based information centers. Mr. Joe McDonald, who represents the Flathead Tribe and the Affiliated Tribes of the Northwest Indians, stated that the Northwest tribes will be very angry if universities are selected instead of Indian tribes and organizations as information center sites.

Although many assume that only higher education institutions and state education agencies have many diverse capacities and resources, false assumptions have been made regarding their abilities to provide services to small communities. Centers without experience in providing services to Indian communities may not be able to make accurate and meaningful statements regarding the effectiveness of Title IV programs. Institutions outside of the Indian community will not have the insight to properly consider the unique aspects of a program designed for Indians. Many Indian tribes and organizations have developed resources, experience and diverse training capacities in Indian education (and their inherent rapport with the programs should be a prime consideration).

The 1978 Amendments do not provide for a specific review process or selection criteria for making contracts with potential information center applicants. Since controversy in the past has surrounded the competitive grants review process, it is our recommendation that a process be clearly defined with a clear indication of the work scope.

The 1978 Amendments do not specify whether or not the Information Centers will be autonomous or coordinated with one another.

The centers should be coordinated since they will have to research and evaluate diverse Indian education programs. If they are autonomous, they will not be able to provide a national perspective on program effectiveness without national coordination. If we are to look at present technical assistance services, autonomy has not proven to be beneficial to either the programs being served or to the technical assistance providers. We find that very often we reinvent the wheel or simultaneously invent the same wheel, in terms of materials, information disseminated and program design.

We urge the Congress to appropriate the entire authorization of $8,000,000 for the Information Centers. In order for the centers to do the work that is expected of them, and because this work is so important to the future development of Indian education programs, full appropriation for the centers is necessary.

In addition, we urge full funding for demonstration projects authorized in the Amendments, Sec. 1143, Section 303 of the Indian Elementary and Secondary School Assistance Act. These additional monies will provide additional funding to programs specifically to demonstrate their effectiveness which is something that Congress has requested. When appropriations are made for competitive grants to LEA's, the Office of Indian Education should also establish internal procedures to report the results to Congress.

Section 1005 (c), (1), (B), appears to restrict the provision of technical assistance to existing grantees only. We do not believe this is the intent of Congress. If the intent of Congress is to provide technical assistance to eligible applicants, this should be clarified. Wording as follows is suggested:

"Provide technical assistance upon request to local educational agencies and Indian tribes, Indian organizations, Indian institutions and parent committees pursuant to Section 305(b) (2) (B) (ii) of the Indian Elementary and Secondary School Assistance Act in planning, evaluating and carrying out programs assisted under this part, etc.".

In closing, I would like to emphasize again that the information centers should be community-based, inter-related, Indian-controlled centers who have the capacity to provide the needed educational services required by the Amendments.

Again, thank you on behalf of United Indians of All Tribes Foundation for the opportunity to present this testimony.

AFFILIATED TRIBES of NORTHWEST INDIANS
ADVOCATES for INDIAN EDUCATION
Spokane, Washington
(509) 456-6824

TESTIMONY ON P. L. 95-561,
INDIAN EDUCATION

Prepared for the Subcommittee on
Elementary & Vocational Education
U. S. House of Representatives

June 15, 1979

I appreciate the opportunity to present testimony on the implementation of all the provisions of P. L. 95-561, Title XI, Indian Education. My name is Lorraine F. Misiaszek, and I am the Executive Director or Advocates for Indian Education, the educational arm of the Affiliated Tribes of Northwest Indians, perhaps one of the oldest tribal organizations in the country. Membership of the Affiliated Tribes is comprised of forty-three tribes and bands of the four northwest states. Advocates' governing board of Directors is selected by the member tribes from each state of Montana, Idaho, Oregon, and Washington. Our offices are located in Spokane, Washington.

I would like to introduce our Board President, Maxine Edmo, here with me. She is also the chairperson of the Shoshone-Bannock Education Committee, Fort Hall, Idaho.

Title XI, P. L. 95-561, contains disturbing and complicated provisions as we begin to review this legislation with the knowledge that our Education programs must meet the requirements laid down by the rules and reguations now being developed.

The first question we raise is this: In the process of developing a basic but comprehensive law for the education of Indian tribes, why did the Education and Labor Committee place BIA programs within the Elementary and Secondary Education Act? (ESEA) We are apprehensive and would like to know just what the intent of Congress was in regard to this question.

Education of our young is and always was very close to the hearts of Indian people and an inherent part of our culture since will before the birth of Christ. Had we not succeeded in retaining a small measure of control over our educational practices in the face of a constant and frequently cruel effort to eradicate our language and culture by well-meaning but misled assimilationists adhering to a "melting pot" theory, we, as tribes and individual Indians, would have completely lost everything that makes our existence tolerable today.

In our concern, we view this present Act, P. L. 95-561, as a move in the direction of having Indian education eventually absorbed into the Department of Education completely.

Last year, and again this year, tribes and Alaskan Natives demonstrated their overwhelming opposition to the attempt to transfer BIA Education to the Cabinet-level Department of Education (S. 991 and H. R. 2444) and worked diligently to this end.

As a consequence of devoting full attention and effort to defeat the proposed transfer, very little time was left tribal education leaders to give adequate attention and consideration to all the complex ingredients that went into Title XI, P. L. 95-561, while on it's way toward passage.

It is true that while a few field hearings were held and attended by committee staff mainly, many of the issues of concern today were raised. Apparently our concerns had no impact upon the Committee's final actions which was to pass this bill in it's present form. We view this Act and all the related preparation processes as a direct assault upon the principles of Tribal self-determination.

Title XI is designed to program failure for tribal education programs. The law too specifically directs the Bureau of Indian Affairs to perform services in such detail; within too tight a time frame; and to accomplish these tasks with a locked-in budget, all of which promotes a failure outcome for the joint tribal-BIA efforts.

The very nature of true Indian education founded upon the ages-old philosophy that it is a learning experience from birth to death and tied closely to the family, tribe, and the land, differs so significantly from current American education beliefs and practices that an impasse is reached immediately where integration of the two is attempted. The resulting effect is that the control shifts into the hands of the larger and wealthier entity - the Office of Education. We have seen this happen with Title IV, P. L. 92-318 (as amended).

When Indian tribal members testified to the need of an education program designed to meet their unique and critical situations prior to the passage of P. L. 92-318, they provided statistics and descriptions of their problems to justify the need for such legislation. We believed at that time that Indian tribes would be adequately served once the Bill was enacted into law.

What began as a milestone in Indian education became just another program in the U. S. Office of Education. Title IV lost it's uniqueness that was intended to meet Indian tribal educational needs more appropriately and effectively for some of the following reasons:

1.) The U. S. Office of Education tends to standardize all of it's programs toward a norm (white, middle-class).

2.) No special effort was made to understand tribal governments, tribal sovereignty, the trust relationship between treaty and Agreement tribes and the Federal government in relation to Title IV.

3.) No recognition of the principles governing self-determination of tribes in their education programs.

4.) Demonstrated reluctance to recognize that different languages and culture requires different and new educational approaches and philosophy.

5.) No attempt was made to integrate Indian history, and contemporary life into all other USOE programs.

Perhaps the most crucial unresolved issue that reaches to the heart of the matter is the eligibility criteria of an "Indian" under Title IV. Tribes now must deal with two definitions of eligible "Indians" within Title XI. They recognize only one definition, their own tribal membership enrollment criteria and that which is followed by their trust agency, the Bureau of Indian Affairs, in delivery of services to tribes and Alaskan Natives.

U. S. Office of Education's definition of an "Indian" is so vague that tribal enrollment verification of those receiving Indian education services is impossible. Either one is, or is not enrolled with a treaty or executive agreement tribe, and thus identification can be made through enrollment records of the tribe. If the Congress saw fit to require only one definition for Indian eligibility under P. L. 95-561, the definition presently in effect at the Department of the Interior, BIA, would be more acceptable to tribes and a vast improvement over USOE's present definition.

The difference in how Part A, Title XI, P. L. 95-561, is implemented by the U. S. Office of Indian Education and the Bureau of Indian Affairs presents a sharp contrast. The BIA is working very closely with Indian tribal people to develop their sections of the law into a more or less acceptable end product to meet the time lines for publishing regulations in the Federal Register. On the other hand, the Office of Indian Education, HEW, has yet to make their first effort toward establishing communication and consultation with Indian tribes. Will this double standard continue?

Title XI, P. L. 95-561, contains language so restrictive that the rules and regulations are almost unnecessary. It reaches into the tribe's trust agency, the BIA, and directs restructuring of line authority against a majority of tribe's wishes as expressed in numerous hearings held around the country by Federal task forces. The tight time schedule does not allow for the Assistant Secretary for Indian Affairs to move his management system into place first, before the administrative changes occur.

The Act does not provide for transitional time and additional budget, therefore, those Indian communities who are expected to respond immediately to the drastic changes imposed by this law ought to be given ample time to develop training and implementation plans in preparation for the changes required. They should not be expected to carry out the required activities without additional funds to meet the new expenses incurred.

The principles of "self-determination" for tribes has not applied in the development of this law. By placing tribal educational services under the Elementary and Secondary Education Act, the integrity underlying the self-determination act, P. L. 93-638, is violated. Where are tribal options provided for in the language of Title XI? For example, the BIA and tribal contract schools must look only to the formula allocation to operate these schools. When tribes choose not to utilize the contracting authority of P. L. 93-638, where will they find monies to support other educational programs and services not falling within the realm of Title XI?

Too many questions remain to be answered, and Indian tribes have too much at stake that is dear to their hearts to have their education efforts frustrated by the confusion of authority outlined in this law that will be applied to them, along with implemenation forced upon them prematurely. Certainly, educational efforts having great success have always been preceeded by the most careful planning and preparation. To do less is to insure failure.

Perhaps it is not too soon to request that the Congress consider placing all Indian education programs into the Federal agency that is responsible for carrying out the trust services for Indian tribes and Alaskan natives, the Bureau of Indian Affairs in the Department of the Interior. This move, in itself, would correct the greatest deficiencies and inequities of the present Act as cited herein.

Thank you for your attention.

STATEMENT OF SUZY ERLICH, SECRETARY/TREASURER, BOARD OF THE COALITION OF THE INDIAN CONTROLLED SCHOOL BOARDS

Ms. **Erlich**. Good afternoon.

I am Suzy Erlich. I serve as the secretary treasurer for the Board of the Coalition of the Indian Controlled School Boards.

As such my thoughts and analysis will be reflected in the written documentation that was presented to this committee.

However, as an individaul I do have a few comments that I would like to make based upon today's panelists and presenters.

First of all, if I may be so bold, Mr. Lovesee, I would like to pose a question for clarification purposes.

Mr. **Kildee**. The Chair will permit you to address counsel.

Ms. **Erlich**. You asked one of the gentlemen I believe earlier today about contract schools, tribally operated schools, whether or not they should be under the purview of a trustee of education.

Mr. **Lovesee**. Yes.

Ms. **Erlich**. The question that I have to present to you is what is your concept of trust and where do you believe that trust is or should be within the Bureau itself?

Mr. **Lovesee**. Well, no, I believe that the trust exists throughout the Federal Government, period. Not only all of the divisions within the Bureau but all divisions within the Government.

The question is an administrative one and that is whether contracting is actually handled as a trust responsibility within the Bureau or whether the contracting process is handled out of the Education Division of the Bureau. Both of them should be responsive to the same self-determination policy, and trust responsibility policy fiduciary in nature. That should be no different. The question is who handles the paperwork.

Ms. **Erlich**. Thank you. You have answered my question with regard to that. In my particular preference as an individual I would prefer to see that for contract schools, tribally operated schools that the administrative responsibility lie within the Education Department.

At the present time I understand that what is being proposed within the Department of Interior Bureau of Indian Affairs is that the contract schools, tribally controlled schools, will be under the responsibility of trust responsibilities.

Added on to that, somehow throwing in the Department of Indian Education programs, that has not exactly been spelled out. My concern is that we will not be streamlining the system for the benefit of the Indian youngsters. We will be just throwing in another level of bureaucracy.

Therefore, my personal feeling is that contract schools must move under the Department of Indian Education programs and it should be very clearly spelled out there because trust is carried throughout the Bureau of Indian Affairs as well as all the other agencies and the Congress itself. You can carry trust over to the Education Department.

My second observation from serving on a particular task force for 95-561 is that the Bureau when it comes to education has this philosophy about them and us, them being the tribes and contract schools and us being the Bureau and its own Bureau schools. That presents a lot of conceptual difficulties. It presents a separation of something that should be unified, the delivery of adequate education to Indian youngsters.

One of the presenters earlier today recommended that we should start thinking about the transferring of education to the tribes and in listening to him, I interpreted that as meaning that we should begin to think about removing the Bureau of actual program operations and placing those within the tribal responsibilities.

If my perception is correct, I would sincerely advocate for that, that the Bureau, as far as education goes, has a long range goal of not actually operating the programs themselves but having the tribes operate the programs. I see that as real local control. I see that as really reaching the intent of 561. I would make that as a recommendation.

I have one more thing I would like to comment on and I believe that I have talked to the various staff within the committee and that is that we have created a new law, 516, dealing with education.

There are many other laws out there, for instance, Johnson-O'Malley, 638, titles to different acts, title I, title VII, title IV. All of these different laws and acts impact onto the various Indian nations. Not only do they impact but quite often they conflict. My particular concern right now is how are we going to insure that 638 and its various restrictions, its various regulations, how are we going to insure that we fight in 561 somehow so that 561 and 638 don't conflict?

If there is no careful thought given into measuring all of those particular laws and acts so that they work for the common good all you are going to do is going to be creating a further mess that is out there and I don't think that is what you intend to do.

I think that the Congress needs to take a look at what all it has created and passed in the form of laws for Indian education, at least taking a look at that and the needs to begin to determine what needs to be changed, what needs to be added, and what needs to be deleted, so that finally there would be some semblance of order within the Indian nations because, as I say, all of these laws imapct and there will be areas where they will conflict.

That is a recommendation. That is all I have to say.

Mr. **Kildee**. Thank you, Ms. Erlich.

Miss Adamson?

STATEMENT OF REBECCA ADAMSON, BOARD MEMBER, COALITION OF INDIAN CONTROLLED SCHOOL BOARDS

Ms. **Adamson**. I have no formal statement.

I am with the Coalition of Indian Controlled School Boards.

I would like to go back a little bit again on standards and just briefly state that standards when they first met January 8 discussed a great many of the things that you have heard today.

We were extremely concerned and committed to Indian education and to the integrity of a government-to-government relationship being reflected by the work that we would be doing throughout the coming year.

With that as our focus and our main philosophy, we had determined that you cannot establish just a set of standards to meet each and every school's needs. So we approached it with the idea that on a government-to-government relationship you establish an education system so that that system has the flexibility. There would be a tribal education system with the flexibility for the tribal schools to operate within that system.

What we had attempted and what we had dreamed of doing was having from establishing an Indian accreditation agency to research the United Nation's education committees, research the Center for Intermediate Education in which the largest alternative education system library is being housed.

We had mapped out five immediate areas that had to be researched and deeply looked into because the problems that we are presenting today and have been presented through 561 are not going to be just handled easily.

We were given the opportunity to address what the education needs are, an opportunity to work at meeting those needs, and I think we have experienced tremendous frustration that for one the tribal educational model project that we wanted developed, an Indian accreditation agency study, the alternative education system research program were all dropped along with just a basic literature search of the existing studies were denied us.

So we were faced with, at the last oversight hearings, the chairman stated we were faced with duplicating State education standards. I think it has been repeated over and over again that no one wants to duplicate State education standards. So it is not that standards is the last chance. We will keep on struggling in this whole thing but I think it sure would be a leap forward if we were provided the means to get at some of these areas.

Mr. **Kildee.** Thank you very much, Miss Adamson.

Do you have any questions?

Mr. **Lovesee.** I really have no questions. I am sure the transcript will make very interesting reading.

Mr. **Kildee.** I really think these have been very valuable hearings. I can think of no hearings that have brought together as much information concerning Indian education as these, even when we had similar hearings before on the bill.

But I personally am better able to understand the testimony today because I have spent some time with the Indians in the western part of the United States. I have always distinguished between knowledge and realization. My trip to Arizona and New Mexico during Easter week really brought to me greater realization of some of the unique situations and problems and needs of the Native Americans of this country.

So these hearings have been extremely helpful to me. Today we have spent exactly 7 hours. We have exhausted three court reporters, and they didn't have lunch. But I think that the testimony has been excellent and I want to thank all of you.

If you have any closing statements, please feel free.

Mr. **Collins.** I have a question that has not come up today. I would like to know about startup costs. How is that going to come about? Our position, if we decide to build a 638 school, where do we get startup?

We go to BIA and they say they don't have any money; you have to go to appropriations. You go to appropriations and you don't have that much time before a new school year. I wonder if there is any clarification on where to get the startup funds and a shortcut to them without taking 6 months to get them? If we do it will be Christmas before we go to school.

Mr. KILDEE. I don't know the answer. Mr. Lovesee?

Mr. LOVESEE. I don't have any suggestions but as of yesterday I am aware of the problems.

Mr. COLLINS. If you find a shortcut, let me know because I will be getting back to you.

Mr. KILDEE. We will address ourselves to that. I think you raise a very valid point. Very often we can live in a vacuum down here. I have often said [illegible] other areas that Washington can become or is an island of unreality surrounded by reality. I think that is a legitimate question [illegible] you have raised.

Mr. COLLINS. We have not been a contract school before. We set up an emergency school and we are in the position now where we may have to go contract in order to keep control of our own students there. Without the startup costs, we are hurting for time already and we cannot afford to waste the whole summer going around in circles.

Mr. KILDEE. We will pursue your question. I don't know whether we will come up with an adequate and satisfactory answer for you but I think you raise a very legitimate question to which we will have to address ourselves.

Mr. DUPRIS. Pyramid Lake is an example of a technical assistance site. It is working with the Office of Indian Education and it has been seen as an example of full spectrum technical assistance that can be provided at all levels.

The same thing could be noted of the Quinault Tribe in the State of Washington. Mike Doss had a chance to visit Pyramid Lake and talked about this issue and prior when they had the meeting in Reno.

Mr. KILDEE. Miss Adamson?

Ms. ADAMSON. This is the last time I will bring up standards studies but there is a key point I wanted to make sure was in the record that section 1124 of 561 does authorize the money for the studies that we have been talking about. So I just wanted to make sure that that got into the record and where do we go from here?

When you meet with Mr. Lavis is standards going to get another memo or how is that going to go? I guess that is what I wanted clarified. Is that out of order?

Mr. KILDEE. I can never guarantee to move the executive branch of Government but I can get their attention and I will do that. We are having oversight hearings to make sure that the intent of the Congress, both expressed and implied, is carried out in the execution of the law. I will try to raise those questions with Mr. Lavis and keep in contact with you on that basis.

Ms. ERLICH. For the record I think I need to do my own personal oversight at this oversight hearing. I would like to elaborate a little bit on my recommendation for removing a daily program responsibility from the Bureau.

That is not to say that I would encourage or even want to see the education delivery system removed or that authority removed from the Bureau. It should stay there as a trust responsibility.

Mr. **Kildee**. Yes; Congress is always subject to constituent oversight and we welcome that. Sometimes we don't always feel comfortable with it but we feel that is your right to look forward to that.

Thank you again. It has been a very productive hearing.

The subcommittee is adjourned.

[Whereupon, at 5:05 p.m. the Subcommittee on Elementary, Secondary, and Vocational Education adjourned.]

OVERSIGHT HEARINGS ON THE IMPLEMENTATION OF INDIAN EDUCATION AMENDMENTS

THURSDAY JULY 26, 1979

House of Representatives, Subcommittee on Elementary, Secondary, and Vocational Education, Committee on Education and Labor,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:05 a.m., in room 2257, Rayburn House Office Building, Hon. Dale E. Kildee presiding.

Members present: Representatives Perkins, Kildee, Erdahl, and Hinson.

Staff present: Alan Lovesee, majority counsel; Jeff McFarland, research assistant; Scherri Tucker, assistant clerk; and Jennifer Vance, minority legislation associate.

Mr. Kildee. The hearing will come to order.

This hearing of the Elementary, Secondary, and Vocational Education Subcommittee will focus on the administration of the Indian Education Act, title IV of the Education Amendments of 1972—Public Law 92-318. This is the fourth hearing which I have chaired since Chairman Perkins asked me to spearhead the subcommittee's efforts in Indian education.

This is the second hearing which I have chaired on the implementation of this vital act and I wish to thank all of the witnesses, in advance, for participating today and giving us the benefit of your input.

I have had the pleasure of hearing several of the witnesses before. There are others, however, who will represent tribes, organizations, and groups who have never testified before our committee. I wish to extend to you a special welcome. As the Education and Labor Committee enters its fourth year of jurisdiction over Indian education programs, we wish to give special emphasis to the problems of groups which have not been heard in the past. By doing this, the committee continues its practice of constantly expanding the numbers of people upon whom it can call for advice.

The first witness for today's hearing will be Dr. Gerald Gipp, the Deputy Commissioner in charge of the Office of Indian Affairs.

[The prepared statement of Gerald Gipp follows:]

PREPARED STATEMENT OF GERALD E. GIPP, DEPUTY COMMISSIONER, OFFICE OF INDIAN EDUCATION, U.S. OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, ACCOMPANIED BY BRIAN STACEY, EXECUTIVE OFFICER, OFFICE OF INDIAN EDUCATION, U.S. OFFICE OF EDUCATION, HEW; JUDY BAKER, BRANCH CHIEF, OFFICE OF INDIAN EDUCATION, U.S. OFFICE OF EDUCATION, HEW; AND PAUL RIDDLE, ATTORNEY-ADVISER, OFFICE OF THE ASSISTANT GENERAL COUNSEL, OFFICE OF THE SECRETARY, HEW

Mr. Chairman and Members of the Subcommittee, I am pleased to appear before you today to provide information pertaining to the implementation of the amendments to the Indian Education Act (Title IV), passed by the Congress as part of the Education Amendments of 1978. The Education Amendments of 1978 also extended the Indian Education Act for five years to October 1, 1983.

IMPLEMENTATION

Prior to the passage of the Education Amendments of 1978, Public Law 95-561, we began to share information with the National Advisory Council on Indian Education (NACIE) and the Indian community regarding the status of the reauthorization of Title IV and our plans to implement the proposed amendments through revising our regulations. We drafted issue papers describing proposed changes in the rules and regulations and shared them at [illegible] technical assistance conferences in San Diego, Denver, and Grand [illegible] September 1978. They were also shared with recipients of our discretionary grants. The papers were discussed at workshops and participants were invited to submit comments. At the technical assistance conference on discretionary grants held in November 1978, proposed changes in the regulations were highlighted and participants were urged to submit comments to the Office of Indian Education. In numerous other presentations before Indian groups, such as the National Indian Education Association and the South Dakota Indian Education Association, information on the reauthorization and the proposed changes in our regulations was also shared.

With the enactment of Public Law 95-561 on November 1, 1978, the amendments to Title IV became effective. To inform applicants and to enable them to take advantage of the changes during the fiscal year 1979 grants process, we included information in the application packets explaining amendments to particular programs.

In the meantime, however, we continued the process of revising the regulations. On September 12, 1978, a "Notice of Intent" to develop regulations was signed by the Commissioner of Education and was published in the Federal Register. This notice was also published in the OIE Newsletter. A schedule for the Notice of Proposed Rulemaking was published in the February 1979 issue of the OIE Newsletter. When this schedule was revised because of delays in the internal clearance process within OE and the Department, a revised schedule was published in the May 1979 issue of the OIE Newsletter. The proposed regulations were finally published in the Federal Register on June 29, 1979.

Copies of the proposed regulations have been sent to all those on the OIE Newsletter mailing list, including NACIE, Indian tribes, Indian organizations, Indian institutions, other grantees and interested parties.

Nine public meetings will be held in areas convenient to Indian people. These meetings are to be held from August 13 through August 22 in Akron, New York; Greensboro, North Carolina; Minneapolis, Minnesota; Tulsa, Oklahoma; Bismarck, North Dakota; Phoenix, Arizona; Davis, California; Seattle, Washington; and Anchorage, Alaska. In addition, written comments on the proposed regulations may be submitted to the Office of Indian Education on or before August 28, 1979.

At the end of the comment period, OIE will draft the final regulations, which are expected to be published by late December 1979.

The proposed regulations cover the changes in Title IV contained in the Education Amendments of 1978 and also clarify existing regulations. They provide in detail what is expected of the LEA and what is expected of the parent committee in the operation of the project. They sharpen the distinctions among the various programs; provide for consistency among similar programs; tighten selection criteria for competitive programs; clarify standards for the development, operation, and evaluation of projects; and standardize definitions. Additionally, general provisions are included and appendices are used to describe procedures, including the assurances for an applicant to follow when receiving a grant.

The following amendments to title IV are covered by the proposed regulations:

Part A

Part A of the Indian Education Act (Title IV) was amended to: (1) address "culturally related academic needs," (2) make qualifying tribally operated schools eligible for entitlement payments, (3) require an annual audit of one-third of the LEAs receiving Part A funds, (4) provide a set-aside under Part A for competitive demonstration grants to LEAs; (5) make clear that persons serving in the place of the natural parent (in loco parentis) are eligible to serve on parent committees, (6) give parent committees input into hiring decisions and require parent committees to establish, adopt, and abide by by-laws.

Culturally related academic needs.—The proposed regulations clarify the fact that projects authorized under Part A should be designed to meet the culturally related academic needs of Indian children as well as their special educational needs. Although we have been funding culturally related activities under Part A since the Act was passed in 1972, some LEAs have declined to carry out those activities on the ground that they were prohibited.

Tribal schools.—We published an interpretive rule in the Federal Register to explain to tribal schools how to apply for funds under Part A this year. Prospective grantees were also invited to a workshop in Phoenix held by the National Indian Training and Research Center. The interpretive rule was explained and they were given technical assistance on the application process.

The proposed regulations cover the participation of tribal schools in the Part A entitlement program. Most of the provisions that apply to public school districts also apply to tribal schools except the requirement to establish and involve a parent committee. It is our view that the purpose of the parent committee is to obtain Indian input into the educational process. Since tribal schools are controlled by Indians, a parent committee is not required.

Program monitoring and data collection.—We are in the preliminary stage of planning for these activities. We expect to make several changes in the 1979–80 school year. We will revise our student eligibility form and our monitoring procedures will include a review of the student eligibility forms on file in grantee agencies.

The Education Amendments of 1978 also require the Assistant Secretary for Education to supervise a thorough study and analysis of the definition of "Indian" in the Indian Education Act. The study and analysis is to include (1) an identification of the total number of Indian children being served under Title IV, and (2) an identification of the number of Indian children eligible and served under each of the clauses of the current definition. Our role in this effort is mainly the collection of data.

LEA demonstration projects.—Grants for demonstration projects are covered in our proposed regulations. For the purpose of the statutory reservation of funds, the regulations define an LEA with a high concentration of Indian children as one in which the number of Indian children enrolled in the schools of that agency is (1) at least 300; and (2) at least 80 percent of the total enrollment for that agency.

Parent committees.—Minor changes were made in the section of the law setting forth the conditions necessary for the approval of projects under Part A of the Indian Education Act. The 1978 Amendments regard those serving in loco parentis capacities the same as parents and the Amendments also call for the Part A applications to set forth policies and procedures for the hiring of project personnel. Both of these amendments are reflected in the proposed regulations.

Part B

Part B of the Act was amended to (1) broaden the scope of pilot and demonstration projects to include "gifted and talented" programs, (2) expand existing teacher training programs to allow training of educators of Indian people (including adults), rather than just Indian children, (3) authorize the establishment of regionally based information centers in place of the dissemination authority in the original legislation, and (4) expand the fields for which fellowships may be made available to include fields of study leading toward post-baccalaureate degrees in medicine, law, education, and related fields; and toward undergraduate or graduate degrees in engineering, business administration, natural resources, and related fields.

Gifted and talented projects.—These are authorized in our current regulations.

Teachers of Indian people.—The proposed regulations for Education Personnel Development projects implement the statutory change. Individuals may now be trained to serve all Indian students, including adults.

Regional centers.—We have developed a plan to implement this new authority which has been reviewed and approved by NACIE. Our "Report Submitted to the House and Senate Appropriations Subcommittees on the Interior and Related Agencies" was shared with NACIE in early May. A copy of the report is also being made available for the information of this Subcommittee. The purpose of this report was to (1) examine existing structures and determine if they could provide the center function, and (2) address the functions of the centers. We concluded that a separate group of Indian education centers should be established.

A special notice has been sent to NACIE and to Indian tribes, Indian organizations, Indian institutions, and other grantees and interested parties, dated July 1979, to inform them of information-gathering sessions which will be held concurrently with the public meetings on the proposed regulations. The notice also includes an advance notice which appeared recently in the Commerce Business Daily concerning the centers, as well as excerpts from the Report to the House and Senate Appropriation Subcommittees on the Interior and Related Agencies.

Fellowships.—The Indian Fellowship Program is covered in our proposed regulations under a separate part. These regulations implement the statutory changes.

Part C

Part C of the Indian Education Act was amended to provide clear authority for an educational services program. The proposed regulations include separate provisions for this program, as well as for each of the other Part C programs.

CONCLUSION

In closing I wish to emphasize that we have made every possible effort to keep NACIE and the Indian community informed and to seek their comments regarding the implementation of the 1978 amendments to the Indian Education Act.

At this time, my associates and I will be happy to answer any questions you may have.

Thank you very much.

STATEMENT OF GERALD GIPP, DEPUTY COMMISSIONER, OFFICE OF INDIAN AFFAIRS, ACCOMPANIED BY JUDY BAKER, BRANCH CHIEF, OFFICE OF INDIAN EDUCATION, U.S. OFFICE OF EDUCATION, HEW, PAUL RIDDLE, ATTORNEY-ADVISER, OFFICE OF THE ASSISTANT GENERAL COUNSEL, OFFICE OF THE SECRETARY, HEW, BRIAN STACEY, EXECUTIVE OFFICER, OFFICE OF INDIAN EDUCATION, U.S. OFFICE OF EDUCATION, HEW

Dr. GIPP. Thank you, Mr. Chairman. I would like to introduce the people with me: Judy Baker, branch chief in our office; at the end of the table is Paul Riddle, who is with the Office of the General Counsel and has worked closely with the development of the regulations; in addition to that, Mr. Brian Stacey, my executive officer. Dr. Doss also is here, with the National Advisory Council on Indian Education.

Mr. KILDEE. Thank you very much. You may proceed.

Dr. GIPP. Mr. Chairman and members of the subcommittee, I am pleased to appear before you today to provide information pertaining to the implementation of the amendments to the Indian Education Act—title IV—passed by the Congress as part of the Education Amendments of 1978. The Education Amendments of 1978 also extended the Indian Education Act for 5 years to October 1, 1983.

IMPLEMENTATION

Prior to the passage of the Education Amendments of 1978, Public Law 95-561, we began to share information with the National Advisory Council on Indian Education—NACIE—and the Indian community regarding the status of the reauthorization of title IV and our plans to implement the proposed amendments through revising our regulations. We drafted issue papers describing proposed changes in the rules and regulations and shared them at our various technical assistance conferences in San Diego, Denver, and

Grand Rapids in September 1978. They were also shared with recipients of our discretionary grants. The papers were discussed at workshops and participants were invited to submit comments throughout the year. At the technical assistance conference on discretionary grants held in November 1978, proposed changes in the regulations were highlighted and participants were urged to submit comments to the Office of Indian Education. In numerous other presentations before Indian groups, such as the National Indian Education Association and the South Dakota Indian Education Association, information on the reauthorization and the proposed changes in our regulations was also shared.

With the enactment of Public Law 95-561 on November 1, 1978, the amendments to title IV became effective. To inform applicants and to enable them to take advantage of the changes during the fiscal year 1979 grants process, we included information in the application packets explaining amendments to the particular programs.

In the meantime, however, we continued the process of revising the regulations. On September 12, 1978, a notice of intent to develop regulations was signed by the Commissioner of Education and was published in the Federal Register. This notice was also published in the OIE Newsletter. A schedule for the notice of proposed rulemaking was published in the February 1979 issue of the OIE Newsletter. When this schedule was revised because of delays in the internal clearance process within OE and the Department, a revised schedule was published in the May 1979 issue of the OIE Newsletter. The proposed regulations were finally published in the Federal Register on June 29, 1979.

Copies of the proposed regulations have been sent to all those on the OIE Newsletter mailing list, including NACIE, Indian tribes, Indian organizations, Indian institutions, other grantees, and interested parties.

Nine public meetings will be held in areas convenient to Indian people. These meetings are to be held from August 13 through August 22 in Akron, N.Y.; Greensboro, N.C.; Minneapolis, Minn.; Tulsa, Okla.; Bismarck, N. Dak.; Phoenix, Ariz.; Davis, Calif.; Seattle, Wash.; and Anchorage, Alaska. In addition, written comments on the proposed regulations may be submitted to the Office of Indian Education on or before August 28, 1979.

At the end of the comment period, OIE will draft the final regulations, which are expected to be published by late December 1979.

The proposed regulations cover the changes in title IV contained in the Education Amendments of 1978 and also clarify existing regulations. They provide in detail what is expected of the local educational agency and what is expected of the parent committee in the operation of the project. They sharpen the distinctions among the various programs; provide for consistency among similar programs; tighten selection criteria for competitive programs; clarify standards for the development, operation, and evaluation of projects; and standardize definitions. Additionally, general provisions are included and appendices are used to describe procedures, including the assurances for an applicant to follow when receiving a grant.

We have submitted our written testimony, Mr. Chairman. We are available for your questions at this time.

Mr. KILDEE. Thank you very much, Dr. Gipp.

Dr. Gipp, does anyone else on your panel wish to speak? [Dr. Gipp indicated in the negative.]

Mr. KILDEE. We will start with questions, then.

On page 5, you discuss the tribal schools' participation in the Part A entitlement program. Two types of schools are mentioned as qualified in the act but only one will be covered this year. Can you explain why that is the case?

Dr. GIPP. There are two ways in which tribal schools will be eligible for the entitlement funding. First, those schools which presently have contracts or intend to contract in the very near future under Public Law 95-561 with the Bureau of Indian Affairs, they are automatically eligible to apply for this entitlement funding.

Second, other schools could become eligible if they meet the standards established by the BIA and Department of the Interior. It is my understanding that the particular agencies are now working on those standards and will be publishing them in the Federal Register. Once they are published, schools can then apply against those standards and will be eligible for entitlement funds if they meet the criteria.

Mr. KILDEE. Does Counsel have any questions on that?

Mr. LOVESEE. No, sir.

Mr. KILDEE. Do you feel section 1148 in any way altered the eligibility requirements? What will happen if parents do not submit all the information required on these forms?

Dr. GIPP. On the data collection for the student eligibility?

Mr. KILDEE. Yes; did section 1148 alter the criteria for participation, and what will happen if parents do not submit all the information required on this form?

Dr. GIPP. The answer to this question involves an administrative policy matter. It is my understanding that the effort to collect additional information relates to the definition study mandated by the new law. The request for that additional information does raise the question as to which pieces of information are absolutely required in order to determine the eligibility of a student.

In the past, I think the general policy has tended toward minimal required information; specifically the name of the student, the tribe of that student, and the signature of the parent of that child. These were the basic requirements for eligibility.

Because of the request for additional information, we are now looking for recommendations from the National Advisory Council as to which pieces of information are absolutely required, and we are in the process of making that determination.

Obviously there are Indian people in this country affiliated with different tribal groups that may not have a membership list. I think it is important that they be given an opportunity to provide an explanation as to how they are eligible under title IV.

Mr. KILDEE. You will try to distinguish between information asked for eligibility and that asked for data for other purposes?

Dr. GIPP. Yes, we will.

I do not believe there will be a lot of additional information required to determine eligibility. But where perhaps they cannot provide an enrollment number or their particular tribe, band, or organized group does not keep a list, it is important that somewhere on the form they have the opportunity to justify how they may become eligible under our definition.

Mr. **Kildee**. Then you do not feel it has changed eligibility. In other words, eligibility will remain as it has in the past but other information will be sought for other purposes?

Dr. **Gipp**. That is correct. We are asking for more justification, from individual parents and students.

Mr. **Kildee**. To determine eligibility?

Dr. **Gipp**. Yes.

Mr. **Kildee**. Does counsel have any questions?

Mr. **Lovesee**. Mr. Chairman, will this have a dampening impact on participation in the program among certain groups of persons who are currently participating? Is there a reluctance to give information, and will the requirement for more information, even if it is only for data collection, lead to a kind of subtle negative influence on the program?

Dr. **Gipp**. I think there is a very strong possibility of that, Mr. Chairman. Even if the information is available, I am hearing from various parts of the country that parents will be reluctant to provide, for example, enrollment numbers. So it is difficult to say; but that is the mandate of the Congress, and we are revising our eligibility form accordingly.

What is important is that we allow time out in the field in order that as much accurate data as possible be collected. It is important to stress to the Indian community why we need this accurate information. There is a lot of discussion going on about the definition under which title IV provides funds to students. As a result it is time to clarify just what is the student population that should be receiving services.

Further, it is important for us to emphasize to the Indian community that once the form is filled out and signed by the parent, as long as that child stays in that school district, from grade 1 through grade 12, that is the only time the form should have to be completed. So, it is a one-time effort and if we can emphasize that, that yes, it is somewhat of a hassle to fill the form out and getting the correct information, but once it is on file, we do not anticipate the need to require additional forms each year or several years later as long as the child remains in the school system.

Mr. **Lovesee**. The technical amendments clarifying the intent of Congress with respect to that section indicate that it does not influence eligibility criteria. These were passed by the Senate on Tuesday. They have been sent to the President for his signature, and therefore, that is a fait accompli. That may make your job a little easier.

Mr. **Kildee**. That described the initial intent of Congress when we passed it. We recognized and handled some problems when we passed the technical amendment bill a few weeks ago from committee, and the Senate has now passed it. It is important that we keep good communication on that. I think we did see, from our point of view, some possibility of excluding people, and that was not our intent.

Dr. **Gipp**. Through our dialog with the staff people we understand that intent, and it is also not our intent to exclude students. However, when you do ask for additional information it does perhaps raise questions as to which pieces of data are absolutely necessary to determine eligibility

Mr. **Kildee**. We will be happy to work with you to clarify any questions that still may arise after the technical amendments are passed by Congress.

Mr. **Kildee**. Have you any further questions?

Mr. **Lovesee**. No, sir.

Mr. **Kildee**. How many comments have you received so far? How many have been from Indian tribes? And what has been the gist of the comments you have been receiving?

Dr. **Gipp**. On the new regulations?

Mr. **Kildee**. Yes.

Dr. **Gipp**. The comments to this point have been minimal. I anticipate when we get out to the nine public meetings which are scheduled we will get a great deal of comment. We are looking forward to that. They will help us guide the preparation of the final regulations. People have simply been reviewing the preliminary regulations and have not had a chance to put together their comments.

Mr. **Kildee**. Are they aware of the opportunity to make their comments?

Dr. **Gipp**. Yes; we have mailed out 3,000 copies to Indian tribes, institutions, and to all of our grantees, which includes parent committee chairpersons. In addition to that, we have put out a special notice and a special mailing which articulates the center concept in addition to those dealing with regulations. We have additional copies available if people call in or write to us, we are ready to provide the information.

Mr. **Kildee**. Can you update the status of the regional resource centers for the subcommittee? How many will there be, where will they be, and how much money will there be for each of these? Also, explain how the contracting of these centers will work.

Dr. **Gipp**. There is a great deal of concern about the development of this concept, and of course no appropriations were made available in 1979. As a result of that, the Appropriations Committee requested a study of the center concept. In talking to the congressional people after that mandate came to the office, they felt it would not be necessary to do a complete study, but rather we should provide them with a concept paper which was developed in January and February of this past year. Between the time of February and March there were some internal questions as to the administration of those centers. As a result of that, the paper was not cleared and provided to the Appropriations Committee until May. It was not until after the decision was made internally that if these centers were funded they would be administered by the Office of Indian Education.

Shortly after that, in the first week of June, the National Advisory Council held an information-gathering session. As a result of the pending question as to who would administer these centers, little or no discussion had taken place in the field prior to June 1978. In addition, there was no approved plan to implement the centers, though there was a great deal of concern.

Since that time I have met with the National Advisory Council and explained to them the position we were in through May 1979.

The agency has requested fiscal year 1980 funding for these centers. The agency has requested funding for six centers throughout the country. Ideally we were for eight centers. The agency requested on a pilot basis, six centers at $500,000 each.

Since then we have learned the House Appropriations Committee is recommending funding five centers at a cost of $400,000 each. They would like to see that effort piloted. We have developed a plan to implement these centers which has been revised by the National Advisory Council and we have worked out tentative time lines. It is a matter of putting together a request for proposals—RFP—which will clearly delineate the center activities.

We will have special information-gathering sessions at the nine sites where we conduct our regulation hearings to gather further information on these centers. After those nine meetings are held and we collect additional information, we will then analyze that data. We are developing an RFP work group made up of individuals from the National Advisory Council, the Office of Indian Education, and the Grant Procurement Management Division, in addition to the Office of Evaluation and Dissemination within USOE. We also hope we can call upon Indian experts in the field to help develop that RFP. Once that information is collected, it will then become the task of that working group to set forth the activities of those centers.

We hope that data will be made available to that working team in September. By November, we hope they will have a draft of the RFP which can be presented to the National Advisory Council for their final review and recommendations. At that time we will submit the RFP to the Grant and Procurement Division within USOE which has the responsibility to make it public, and have it published. This should occur sometime in December, and we would allow at least 90 days during which interested parties could apply toward that RFP. The application deadline will fall around March 1980. After that point, it will be a matter of convening a panel to evaluate those applications, and again I see the kind of participation as I described with the RFP. I hope the National Advisory Council will take a lead role and help us evaluate those proposals. After a thorough review of the applications we anticipate by June or July 1980 we will be able to award contracts with the various applicants.

We have authority under the new amendment to award either grants or contracts. We are recommending contracts because it allows the agency to set forth in more detail the activities which these centers will perform. If we make awards on a grant basis, then it means the applicant for a grant would really specify the kind of work and the service population in their application. I think if we were to do that, we would probably not come out with a program of center activities which would meet all the needs of the people across the country. It is important we contract for these activities so we can set forth the boundaries and regions that clearly take into account all the needs.

Mr. Kildee. Counsel.

Mr. Lovesee. Originally, you planned eight centers. You requested six at $500,000 apiece. The Appropriations Committee is recommending five at $400,000 apiece. Given the need and the figures, can you do the job with five centers funded at this level?

Dr. Gipp. It will be very difficult for us to achieve what we want to in that activity resources are limited.

Mr. Lovesee. It will be hard for those inadequately funded projects to be pilot centers proving the worth of the concept?

Dr. Gipp. Especially if we are mandated to take five centers and provide national service for all 50 States.

Mr. Kildee. Did you testify before the Appropriations Subcommittee this year on this topic?

Dr. Gipp. I presented testimony during the month of March.

Mr. Kildee. In the past, projects have rarely been finally evaluated programmatically and fiscally. Can you give us information as the closeout procedure and why this process has not been completed?

Dr. Gipp. I'll ask Ms. Baker to answer that.

Ms. Baker. Mr. Chairman, would you restate your question on the closeout procedures? Do you wish to know the process and why all closeouts have not been completed?

Mr. Kildee. Yes.

Ms. Baker. For the discretionary grant program?

Mr. Kildee. Yes.

Ms. Baker. For the discretionary grant program, the process basically consists of two different phases. One is a programmatic closeout, which is the responsibility of the Office of Indian Education. The other phase is a financial closeout, which is the responsibility of the Grants Procurement and Management Division of the agency.

In a closeout procedure, the Office of Indian Education certifies that a program has met all of the necessary program activity and submitted its program report, which states the type of activities performed and objectives achieved.

The Grants and Procurement Division is responsible for receiving the final financial report and the audit.

If a program has been certified as programmatically acceptable and ready for closeout and the financial aspects of the grant are also satisfied, Grants and Procurement and Management Division will certify it for final closeout.

If a programmatic report is not satisfactory, the program office forwards the grant with a noncompliance recommendation for closure, which means that a grant has not met its objectives or submitted proper reports. Then the Grants Procurement and Management Division, will then hold it until they get the final financial reports. If they are in order and the program office still recommends it as noncompliant or if the financial reports are not in compliance——

Mr. Kildee. If you will pause a moment. The chairman of the full committee, Congressman Carl Perkins, has arrived.

Mr. **Perkins**. I just want to compliment the distinguished gentleman from Michigan on the job he has done in furthering the cause of education for Indians throughout the Nation. I do not think we have had as thorough a study in the history of the Congress as we have had in the past couple of years. Mr. Kildee has made a great contribution and I think all the Members in the Congress appreciate it. We want to cooperate with him in every way possible. I just want to make that observation. Mr. Kildee is one of our outstanding Members, along with the other Members on this subcommittee. They have all worked hard to further the cause. I just wanted to make sure the hearings would be carried on—I knew they would be.

Mr. **Kildee**. Mr. Chairman, we appreciate your continued support. Ms. Baker, please continue.

Ms. **Baker**. If neither of these aspects are satisfactory, then the Grant Procurement and Management Divisions retrieves any costs for which objectives are not met, or for any incurred questionable costs.

The Office of Indian Education is behind in the closeout procedure and we have outstanding closeouts that we have to work on from 1976 forward. The reason for this is primarily limited staffing. By the time the closeouts are due, we are always into the next year's grant process, which at that particular time consumes all staff. So, there is a gradual buildup of overdue closeouts. We get further and further behind in satisfying all closeout procedures.

We use the summer months as an extensive time for closing out.

Mr. **Kildee**. The subcommittee would appreciate your cooperation with the staff of the subcommittee in looking into this process.

Section 186.4 pertains to applicability of section 7(b) of the Indian Self-Determination Act. The explanation says this section more fully explains 7(b)'s applicability. Would you go further in this applicability and set out the parameters?

Dr. **Gipp**. I would like to ask Mr. Riddle to respond to that. He has worked closely with that.

Mr. **Riddle**. Mr. Chairman, the section you refer to is fairly brief, but it is an attempt for us to point out to applicants and grantees that section 7(b) does apply. There has been some confusion on the part of prospective applicants because that particular legislation is not part of the Indian Education Act itself. But it is quite clear that it does in fact apply.

The question of parameters is one we have not yet attempted to address. We are always open to further suggestions and recommendations because it is a fairly difficult section of the legislation. Some of the terminology in that legislation, such as "to the greatest extent feasible" and other language in that statute is not very precise.

We have researched other regulations that have been developed by other Federal agencies, and there seems to be a severe paucity of what that means.

Since the passage of that act, we have tried to apply the provision on a case-by-case basis.

This provision does little more than announce what that statutory provision requires.

Mr. **Kildee**. Thank you very much. Does Counsel have any questions?

Mr. **Lovesee**. Yes, Mr. Chairman. Am I not correct in assuming that particular section found in 93-638 bases the definition of an eligible Indian participant on a different definition than the title IV program?

Mr. **Riddle**. That is correct. We point that out in the proposed regulations, in subsection (b) of that regulation.

Mr. **Lovesee**. Does the Office of Indian Education find it is in the uncomfortable position of forcing applicants or recipients of grants to hire or make use of the expertise of individuals who are not themselves in the same grant class? In other words, not in the group the grant was meant to serve, and therefore find itself in an uncomfortable position between those giving the services and those receiving it?

Dr. **Gipp**. I think that is an accurate statement.

Mr. **Lovesee**. Is there any way to handle that outside of statutory action?

Dr. **Gipp**. I think statutory action would be the ideal thing.

Mr. **Lovesee**. Is there anything less than ideal?

Dr. **Gipp**. Probably not.

That is one of the issues we intend to pursue before we come out with final regulations, but it is difficult to determine how it could be addressed other than by statutory change.

Mr. **Kildee**. We have joining us this morning Mr. Jon Hinson, of Mississippi, who has been active in this oversight committee. Mr. Hinson played an important role in our successful efforts on the House floor about 6 weeks ago to be sure the BIA schools remain with the BIA.

He is a freshman Member of the Congress but has distinguished himself by his interest in Indian education.

Have you any questions?

Mr. **Hinson**. Thank you, Mr. Chairman.

I apologize for being late. Part of my district has been underwater since Easter and I have been meeting with the Corps of Engineers on the subject.

I want to thank you for coming and I am extremely interested in making sure that the Bureau continues unencumbered in providing for the Indians, not only in the area of education but in other areas as well. What we do here will serve in a constructive way to facilitate that and to facilitate the reemergence of American Indians as a strong, vital, cultural force in America. I think the best way to do that, to insure that their income level continues to rise and that they are able to meet the challenges of the latter part of this century, is via education. I am committed to that end and I will be working with you in that area.

Thank you, Mr. Chairman.

Mr. **Kildee**. One other question of the panel.

The Indian-controlled schools, section 186(a)(101), et alia, spells out that funding under the part A 10-percent set-aside should be to establish or enhance, but not to carry out, the basic program of an Indian-controlled school. That basic program, it is felt, should be carried on by BIA funds.

Does this represent a change in OIE position, since these funds have been used in the past to meet basic costs?

How will this be monitored?

Dr. **Gipp**. Yes, it does represent a change. Given that the Bureau of Indian Affairs, as I understand it, is mandated to come up with an allocation formula which will provide for the basic funding for their schools under contract, we feel the best utilization of funds through the Office of Indian Education would be supplementary. Now, we understand the difficulty these Indian schools will confront in trying to establish themselves in their early years, and as a result of that we have built into our regulations the representation to provide funding for up to 3 years for the establishment and development of their school system.

After that, we would hope they would have in place, funding through the allocation formula with the Bureau of Indian Affairs, at which point then our funds should be supplementary to those school systems.

We would hope they would utilize title IV funds to enrich their basic program.

Mr. **Kildee**. Are you saying the first 3 years the funds will be more flexible, then after the 4 years they will be more strict?

Dr. **Gipp**. Yes. We think that will be taking into account what is happening on the side of the BIA, and further, it allows the continued funding of these schools in areas other than basic services.

Mr. **Kildee**. What type of formal liaison exists between your office and BIA?

Dr. **Gipp**. Right now it is very informal. One of the things I am pursuing is to look at very carefully the programs we fund and the programs they fund which have some commonality. I think it is a matter of us getting together, given the mandate the Bureau of Indian Affairs is facing with the new amendments; they have a heavy task before them. As a result our communications have been minimal, but we have had discussions, and I think that discussion will increase greatly in the very near future. So, I am developing concept papers which I and the Director of BIA educational programs can utilize for discussion and begin to lay out plans for improved communications and coordination.

Mr. **Kildee**. Assuming the House and Senate conferees are able to get together in their report to us on the new Department of Education, we will be most anxious to work with you to make sure that whatever transitions take place with regard to Indian education take place in the best interest of the Indian people of this country. We will look forward to working with you on that.

We will submit some further questions to you and if you will, supply the answers for the record.

Dr. **Gipp**. Thank you. We will be glad to do that.

[Information requested from Dr. Gerald Gipp follows:]

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July 30, 1979

Dr. Gerald Gipp
Deputy Commissioner of
Indian Education
Office of Education
Room 2177
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Dear Dr. Gipp:

Thank you for your testimony at the July 26th hearing before the Elementary, Secondary and Vocational Education Subcommittee. We indicated at that time that the following questions would be submitted to you in writing. The questions, along with your answers, will be included in the final printed hearing record:

1) Outline your plans for conducting the audits required by Section 1149 of P.L. 95-561. What is the operational timeline for this section?

2) May non-Indian students participate in programs funded under any of the sections of the Indian Education Act?

3) Elaborate on the new "Capacity to Carry Out the Project" criterion established by §186.5 of the proposed rules and regulations.

4) Will the proposed rules and regulations give any credit in application review for past project performance, other than a negative consideration for unsatisfactory performance? Would such credit require legislative change?

5) How does a person/group receive a "grant application review" (reader) application form? What is the geographical representation (or distribution) of (a) nominated and (b) chosen readers?

6) What percentage of the grants go to (a) reservation, (b) urban and (c) rural, non-reservation areas for Parts B and C of the Indian Education Act? What are the dollar figures for each category (a,b and c above)? What are the geographical-grant distribution numbers for these same categories?

7) Will extensive changes in the regulations be allowed, if the comments warrant them?

8) Please provide for the record:

a) the proposed OIE structure;
b) the proposed Form 506, showing modifications required by Section 1148 of P.L. 95-561; and
c) a copy of the "information packet" sent with the "FY 79 grants packets" which explained the 1978 amendments (referred to on page 2 of your testimony).

In order to facilitate the work of the Subcommittee in preparing this hearing for final publication, I hope you will respond to these questions as quickly as possible.

Thank you again for your cooperation.

Sincerely,

Carl D. Perkins
Chairman

CDP:st

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. [illegible]

August 22, 1979

Honorable Carl D. Perkins
Chairman
Committee on Education and Labor
House of Representatives
Washington, D.C. 20515

Dear Mr. Perkins:

Thank you for your letter of July 30, submitting additional questions to be answered for inclusion in the final printed record of the July 26 hearing on Indian education before the Elementary, Secondary, and Vocational Education Subcommittee. Answers to these questions are enclosed.

If I can be of further assistance, please let me know.

Sincerely,

for [illegible] Tippeconnic
Gerald E. Gipp
Deputy Commissioner
Office of Indian Education

Enclosures

Additional Subcommittee Questions
Office of Education
Indian Education

Question 1: Outline your plans for conducting the audits required by Section 1149 of P.L. 95-561. What is the operational timeline for this section?

Answer: To conduct the audit of projects funded under Part A of the Indian Education Act, as required by Section 1149, we plan to do the following: From October 1979 to January 1980, we will be testing procedures for the audit through a pilot effort. Between January 1980 and the end of Fiscal Year 1980, approximately 250 audits will be conducted. The report to Congress of findings will be completed in October 1980.

To meet the full requirement to conduct an audit of one-third or 383 of the 1,148 projects currently funded under Part A of the Indian Education Act would require additional staff, the request for which is included in the FY 1980 budget request.

Question 2: May non-Indian students participate in programs funded under any of the sections of the Indian Education Act?

Answer: This question was answered by the HEW Office of the General Counsel, in response to a civil rights complaint, as follows:

> OCR regulation. 45 CFR 80.3(a): programs reserved by Federal law to individuals of a particular race.
>
> > An individual shall not be deemed subject to discrimination [under this part] by reason of his exclusion from the benefits of a program limited by Federal law to individuals of a particular race, color, or national origin different from his.
>
> The Indian Education Act (Title IV of the Education Amendments of 1972) is so limited. Sec. 302(a), "Statement of Policy" authorizes grants to LEA's (Part A of the statute) only for the purpose of servicing "special educational [and culturally related] educational needs of Indian [students]."
>
> While, conceivably, there may be situations in which non-Indian participation may be part of a strategy to meet those needs, e.g., a course in Indian culture for non-Indians, for the purpose of inculcating respect for their Indian schoolmates, a fair reading of Sec. 302(a) requires program authorities to limit non-Indian participation where such participation entails expenditures not clearly in furtherance of Indian "special educational [and culturally related] educational needs." Since Part A of the statute authorizes expenditures only for the "special educational [and culturally related] needs of Indians," it is a "program limited by Federal law" to Indians, at least for the greatest part of its activities, since money may, for the most part, be expended solely for their benefit.

> Similarly, Part B of the Act, which authorizes pilot and experimental programs, evaluation, training, and supplemental services (Sec. 810 (a)) mandates the Commissioner of Education to "carry out a program of making grants for the improvement of educational opportunities for Indian [students]." Such mandate, like that of Part A, must result in program benefits reserved for Indian children almost exclusively, by operation of Federal law.

Part C of the Act (Sec. 431) mandates the Commissioner of Education to carry out a program of making grants for the "improvement of educational opportunities for adult Indians." Such mandate must therefore "result in program benefits reserved for Indian [adults] almost exclusively, by operation of Federal law."

Question 3: Elaborate on the new "Capacity to Carry Out the Project" criterion established by section 186.5 of the proposed rules and regulations.

Answer: The criterion in Section 186.5 of the proposed regulations is not new. It was included in the previous regulations (section 187.5, Part B). This criterion is to ensure that new or continued funding of a project is "in the best interest of the Federal Government" and to avoid the possible misuse of funds.

It has been our experience in the past that inability to obtain adequate facilities after receipt of a grant has hampered the ability of some grantees to successfully carry out their programs. Additionally, if an Indian organization not sanctioned by a tribe received funds to operate a program located within the tribe's jurisdiction, the ability of that grantee to successfully carry out its program would also be hampered.

Question 4: Will the proposed rules and regulations give any credit in application review for past project performance, other than a negative consideration for unsatisfactory performance? Would such credit require legislative change?

Answer: Satisfactory performance is considered in the staff review of applications. This review is conducted after the review by outside readers. This is in accordance with the proposed Education Division General Administrative Regulations which provide that "if the [program] official has information that affects the rank ordering of applications, he or she attaches this information to the rank ordering," for consideration by a higher level official. The rank ordering of applications is based on the ratings of the applications by the outside readers.

In addition, applicants receive credit indirectly for good past performance through such selection criteria as adequacy of resources, staff, and commitment to the education of Indians.

The Office of Education is currently exploring other ways to give credit to applicants for good past performance. It has not yet been determined whether or not such credit would require legislative change.

Question 5: How does a person/group receive a "grant application review" (reader) application form? What is the geographical representation (or distribution) of (a) nominated and (b) chosen readers?

Answer: A person or group may receive a field reader application form by writing to the Office of Indian Education, U.S. Office of Education, Room 2161 FOB-6, Washington, D.C. 20202.

To notify our grantees, NACIE, Indian tribes, Indian organizations and other interested parties of our need for field readers for the FY 1979 grant cycle, a notice was published in the September 1978 issue of the OIE Newsletter. This notice indicated the selection criteria for field readers and gave the address to which to send applications. We intend to publish this information in the October 1979 issue of the OIE Newsletter to obtain nominations for our FY 1980 grant cycle.

The geographical representation for nominated readers in FY 1979 was as follows:

State	Number Nominated
Alaska	6
Arizona	19
California	22
Colorado	5
*District of Columbia	3
Florida	1
Idaho	1
Iowa	2
Kansas	3
Maine	1
***Massachusetts	3
Michigan	6
Minnesota	10
Montana	19
Nebraska	2
Nevada	2
New Mexico	20
New York	7
North Carolina	5
North Dakota	12
Ohio	1
Oklahoma	32
Oregon	3
***Pennsylvania	4
Rhode Island	3
South Dakota	23
Texas	1
Utah	2
Vermont	1
Washington	12
Wisconsin	7
Wyoming	4
TOTAL	242

---

*Indians who work in Washington, D.C. (1 from California; 1 from Mississippi; 1 from North Dakota)

**Two are Indian students attending Harvard University (1 from Montana; one from Oklahoma)

***Three are Indian students attending The Pennsylvania State University (2 from Oklahoma; 1 from North Dakota)

The geographical representation of chosen readers in FY 1979 was as follows:

State	Number Nominated
Alaska	2
Arizona	6
California	4
Colorado	3
*District of Columbia	2
Florida	1
***Massachusetts	2
Michigan	2
Minnesota	3
Montana	5
Nebraska	1
Nevada	1
New Mexico	1
New York	1
North Carolina	1
North Dakota	3
Ohio	1
Oklahoma	10
Oregon	3
***Pennsylvania	3
Rhode Island	1
South Dakota	4
Texas	1
Washington	5
Wisconsin	1
Wyoming	1
TOTAL	68

---

*Indians who work in Washington, D.C. (1 from Mississippi; 1 from North Dakota)

**Indian students attending Harvard University (1 from Montana; 1 from Oklahoma)

***Indian students attending The Pennsylvania State University (2 from Oklahoma; 1 from North Dakota)

Question 6: What percentage of the grants go to (a) reservation, (b) urban and (c) rural, non-reservation areas for Parts B and C of the Indian Education Act? What are the dollar figures for each category (a, b, and c above)? What are the geographical-grant distribution numbers for these same categories?

Answer: The following table shows the percentage, dollar figures, and numbers of FY 1978 Parts B and C grants which went to (a) reservation, (b) urban, and (c) rural, non-reservation areas. A small cities category has been added. This category includes such small cities as Pierre, South Dakota; Rapid City, South Dakota; and Flagstaff, Arizona. Since some of the FY 1979 grants are still in the process of negotiation, final figures are not yet available.

Part B (Subparts B, C, D, and E)

	Number	Percent	Amount
Reservation Tribes - 28 Organizations - 8	36	62%	$ 5,202,414
Rural	4	7%	575,678
Small City	3	5%	429,788
Urban	15	26%	3,870,789
TOTALS	58	100%	$10,078,699

Part B (Subparts F and G)

	Number	Percent	Amount
Reservation Tribes - 4 Organizations - 3	7	44%	$ 1,558,427
Rural	0	0	0
Small City	7	44%	1,153,767
Urban	2	12%	288,236
TOTALS	16	100%	$ 3,000,430

Part C

	Number	Percent	Amount
Reservation Tribes - 14 Organizations - 5	19	45%	$ 1,891,553
Rural	2	5%	65,713
Small City	9	22%	666,382
Urban	12	28%	1,400,069
TOTALS	42	100%	$ 4,023,717

The geographical grant distribution numbers for these same categories is as follows:

	Number East	Number West
Part B (Subparts B, C, D, and E)		
Reservation	6	30
Rural	1	3
Small City	1	2
Urban	2	13
TOTALS	10	48
Part B (Subparts F and G)		
Reservation	1	6
Rural	0	0
Small City	0	7
Urban	0	2
TOTALS	1	15
Part C		
Reservation	4	15
Rural	1	1
Small City	5	4
Urban	2	10
TOTALS	12	30

Question 7: Will extensive changes in the regulations be allowed, if the comments warrant them?

Answer: If we receive substantial comments concerning certain areas of the proposed regulations, extensive changes will be made. However, if the proposed regulation is based upon the law and the comments made are contrary to the law, then the proposed regulation will not be changed.

Question 8: Please provide for the record: (a) the proposed OIE structure; (b) the proposed Form 506, showing modifications required by Section 1148 of P.L. 95-561; and (c) a copy of the "information packet" sent with the "FY 79 grants packets" which explained the 1978 amendments (referred to on page 2 of your testimony).

Answer: Copies of the proposed OIE structure and the proposed Indian Student Certification (Form 506) are enclosed. Information on the 1978 amendments was included as an appendix to the grant application packet for each of our grant programs. This information was not sent as a separate packet. Copies of the FY 1979 grant application packets for each of our programs are enclosed.

In addition, letters were sent to administrators of tribal schools informing them of their eligibility to apply for Part A (LEA) grants and enclosing the interpretive rule explaining how to apply for Fiscal Year 1979 assistance as an LEA. A copy of this correspondence and the interpretive rule are also enclosed.

Remainder of evidence retained in Committee files.

Attention: This is Mr. Rouillard's letter which I referred to.

RECEIVED
JUL 26 1979

July 20, 1979

Dr. Gerald Gipp
Deputy Commissioner
Office of Indian Education
U.S. Office of Education
400 Maryland Avenue, S.W., Room 2177
Washington, D.C. 20202

Dear Dr. Gipp:

These are additional suggestions which I submit following recommended revisions on the 506 form which were to be hand-carried by Margo Kickingbird to Dr. Tippeconnic's office. These suggestions concern your draft letters to Indian parents and superintendents.

The instructions/explanations in the superindents' letter should be edited, and I suggest the following:

(1) Attach as addenda the quotes from the sections that refer to falsification of information.

(2) Explain the information on second degree descendancy in the paragraph preceding the listing of the items on the 506 form which you require.

(3) Eliminate the statement on eligibility not depending on blood quantum.

(4) Attach as addenda the section referring to "in loco parentis."

For the Indian parents' letter, indicate in the first paragraph that the only information required on the form is that which identifies the tribe, the source of membership, i.e., student, parent(s), or grandparent(s), and the signature acknowledging acceptance of the falsification or penalty of perjury statement whichever can be approved for purposes of this application. (See my edited copy.)

I don't feel it is necessary to apologize. The burden this imposes is one which we all share in Indian education--parents included; that is, of helping to assure that these limited funds are used to best advantage of the neediest Indian children.

An editorial comment of mine which reflects on the language of the first paragraph is appropriate, in my opinion, for your consideration regarding general policy discussions about Part A. You tell parents ". . . and for the district to receive the money to which your child is entitled, we are requesting . . . ." This, I feel, is misleading. Those acquainted with the law can interpret the meaning of "entitlement;" the average Indian parent might (or will) interpret that as meaning direct payment due to their child. If you discuss "entitlement" with the Indian parent, discuss it in relation to the formula and "the possible program entitlement on your child's behalf," or some other language like that.

Sincerely,

John C. Rouillard
Council Member

JCR/fp

Encl.: Attached draft letters with pencilled editings.

cc: Joy Handley
Violet Rau
Viola Peterson
Michael Doss
Dr. John Tippeconnic

DEPART[illegible] AND WELFARE
[illegible]

[illegible]

Dear Indian Parents:

The Office of Indian Education provides programs through your local school district which may benefit your child. to accurately account for all eligible Indian children In order for your child to take advantage of these programs ~~and for the district to receive the money to which your child is entitled~~, we are requesting ~~you~~ that you fill out the Indian Student Enrollment Certification form.

The form asks you to show basically two things: that your child is Indian under the definition of Indian in Title IV, Part A, of the Indian Education Act and that your child is enrolled in the public schools of your local school district. When you sign this form you are certifying these two things.

Please follow the instructions in the form carefully, filling out each section and answering all questions which relate to you.

There are three things you should be aware of. First Public Law 95-561 requires that the Office of Indian Education request certain information from you and request that you fill out a separate form for each child you certify as eligible for the program. Secondly, ~~you will only have to fill out this form once for all the time your child remains enrolled in the same~~ school district. Thirdly, if you are taking the place of the child's parents, you may sign this form in place of the child's natural parents. There are certain conditions which should be met if this is the case and you should ask the district or the Parent Committee about them if you are not the natural parent.

since this is federal program information

Also, the law states that, ~~if you~~ falsified information ~~on this form, your child can be declared ineligible in the future for receiving any entitlement money under Part A.~~ then subject you to charges of perjury or fraud.

We realize that you may have filled out similar forms in the past for this same purpose and that you may feel we are placing a burden on you to do it again. ~~However, you should remember that~~ Congress has required th~~is~~ change in the law to collect this data, ~~so~~ we have no choice but to ~~request this information.~~ therefore comply.

Thank you for your cooperation. I feel that this form will help us to better serve Indians who were intended to be helped by the Indian Education Act, Title IV, Part A.

Sincerely,

Gerald E. Gipp
Deputy Commissioner
Office of Indian Education

DEPARTMENT [illegible] AND WELFARE

DRAFT

Dear Superintendent:

~~This~~ letter is intended to clarify some questions ~~you may have~~ about the OE 506 form, ~~as required by~~ Section 1148 of P.L. 95-561) ~~This section~~ of the Education Amendments of 1978 requires that the Office of Indian Education ~~request~~ collect certain information ~~to~~ establish~~ing~~ a child's eligibility for ~~inclusion in the~~ entitlement count, ~~for~~ (Part A of the Indian Education Act.)

~~To assure acceptance of~~ forms that you receive from parents ~~under our continuing procedures you~~ must ~~insist on~~ include the following:

1. A separate OE 506 (Indian Student Enrollment Certification) for each child included in your count.
2. Each item on the form ~~should be completed~~ that can be completed must be. However, there are certain items which are ~~necessary to establish eligibility~~. If these are not completed you must reject the form. These items are: not known, the parent (or other) must explain in the section
   - a. The name and address of the eligible child.
   - b. The tribal member through whom the child claims eligibility.
   - c. Tribal information No. 1 and No. 2.
   - d. Tribal information No. 4 when no information is supplied under No. 3 or when box 3c is checked.
   - e. School information.
   - f. The signature and address of the parent or person acting for the parent and the date of the form.
3. All information on the form must be supplied by the parent, that is, the district cannot prepare the form and then ask the parent to verify and sign it.

These forms are not required to be completed each year. Once the child has been accepted as eligible, that child remains eligible while he/she remains in your school district.

DRAFT

Page 2

You must have the number of verified forms on file for which you submit a count in your application, usually in January of each year. for the count

~~Please be aware that~~ eligibility for this program does ~~not depend on the child's Indian blood quantum~~. Eligibility is by descent from a tribal member. ~~As a minimum requirement the child~~ must show that he/she is a biological descendent of at least one grandparent who is (or was; if deceased) a member of a tribe, band, or other organized group of Indians. ~~This definition may result in the presentation of some complex cases.~~ If you cannot reasonably resolve ~~these~~ based on the evidence presented, please refer them to my office for resolution. [illegible]

Another area where questions may arise is in deciding who is acting "in loco parentis" for the child. In all cases the child may have only one set of "parents" responsible for him/her (and the biological parents are preferred.) Section 186a.3(b)(2) of the regulations gives criteria for determining who stands "in loco parentis". Unusual cases may be referred to my office.

Section 1149 of P.L. 93-561 provides that:

> "Any falsification of information provided on the local educational agency application for funds under Part A of such Act is punishable by impoundment of unused funds and an ineligibility for receiving any future entitlement under such Act.
>
> "Any falsification of information provided on the student eligibility form for funds under Part A of such Act is punishable by making that individual ineligible for receiving any future entitlement under the Act."

We realize that this change ~~in our form~~ will require ~~a big~~ some effort on your part to ~~acquire satisfactory signed~~ properly completed forms, and I wish to express my appreciation for the effort in advance.

This effort is required by law and we believe it will result in Indian Education expenditures benefitting all those for whom the Act was originally enacted.

Thank you for your cooperation in these matters and I hope that these forms will enable you to provide more fully for the special education needs of Indian children.

Sincerely,

Gerald E. Gipp
Deputy Commissioner
Office of Indian Education

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

DRA

FORM APPROVED
FEDAC NO. R 41
APPROVAL EXPIRES 6/80

INDIAN STUDENT CERTIFICATION

(Part A, Indian Education Act)

In order to apply for an entitlement grant under Part A of the Indian Education Act it is necessary for the school district to determine the number of Indian children enrolled in the school district.

Any child who meets the following definition from the Indian Education Act may be counted for this purpose.

"Indian" means "any individual who (1) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940, and those recognized by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is considered by the Secretary of the Interior to be an Indian for any purpose, or (3) is an Eskimo or Aleut or other Alaska Native."

You are not required to submit this form. However, if you do not choose to submit it, your child cannot be counted for entitlement funding under Part A of the Indian Education Act.

NAME OF ELIGIBLE CHILD	ADDRESS *(Include number, street, city, State and ZIP code)*

PART I – MEMBERSHIP INFORMATION

WHO IS A MEMBER OF A TRIBE, BAND, OR OTHER ORGANIZED GROUP OF INDIANS? CHECK ONE OF THE BOXES BELOW AND ANSWER THE QUESTIONS FOR THAT PERSON

☐ CHILD HIMSELF/HERSELF ☐ NATURAL PARENT *(ancestor, 1st degree)* ☐ NATURAL GRANDPARENT *(ancestor, 2nd degree)*

WHAT IS THE NAME OF THE TRIBE, BAND, OR OTHER ORGANIZED GROUP OF INDIANS? *(print)*

COMPLETE COLUMN 1 OR COLUMN 2. THE TRIBE, BAND OR OTHER ORGANIZED GROUP IS: *(You may check more than one box, but you should answer in only one column)*

COLUMN 1	COLUMN 2
☐ FEDERALLY RECOGNIZED	☐ NOT FEDERALLY RECOGNIZED
☐ ESKIMO, ALEUT, OR OTHER ALASKAN NATIVE	☐ TERMINATED
	☐ STATE RECOGNIZED, BY THE STATE OF ______
	☐ OTHER ORGANIZED GROUP

WHAT IS THE INDIVIDUAL'S MEMBERSHIP NUMBER? *(Where applicable)* ______

CHECK ONE: THIS IS AN: ☐ ENROLLMENT NUMBER ☐ ALLOTMENT NO. ☐ OTHER *(Explain)*

1. IS THERE AN ORGANIZATION WHICH MAINTAINS MEMBERSHIP DATA FOR THE TRIBE, BAND, OR OTHER ORGANIZED GROUP? ☐ YES ☐ NO
2. IF "YES" GIVE THE NAME AND ADDRESS OF THE ORGANIZATION

NAME OF THE ORGANIZATION	ADDRESS

3. IF "NO" EXPLAIN HOW THE PERSON INDICATED MEETS THE DEFINITION OF INDIAN GIVEN AT THE TOP OF THIS FORM

PART II – SCHOOL INFORMATION

(Print the name and address of the public school the child now attends and enter the child's grade level below)

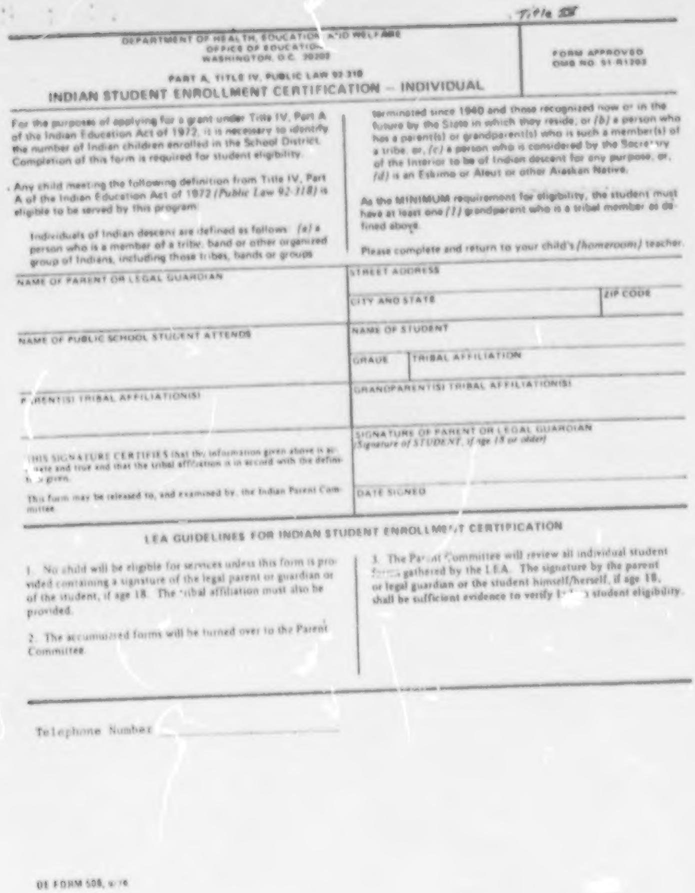
NAME	ADDRESS	GRADE

PART III – PARENT INFORMATION

I CERTIFY that the information provided is accurate and true.	SIGNATURE OF PARENT *(or person acting in loco parentis)*	ADDRESS	DATE
I CONSENT to release this form for Part A Parent Committee use. *(Optional)*	SIGNATURE OF PARENT *(or person acting in loco parentis)*		

OE FORM 506, 8/78

BEST COPY AVAILABLE



Title IV

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

FORM APPROVED
OMB NO. 51-R1203

PART A, TITLE IV, PUBLIC LAW 92-318

INDIAN STUDENT ENROLLMENT CERTIFICATION — INDIVIDUAL

For the purposes of applying for a grant under Title IV, Part A of the Indian Education Act of 1972, it is necessary to identify the number of Indian children enrolled in the School District. Completion of this form is required for student eligibility.

Any child meeting the following definition from Title IV, Part A of the Indian Education Act of 1972 *(Public Law 92-318)* is eligible to be served by this program:

Individuals of Indian descent are defined as follows: *(a)* a person who is a member of a tribe, band or other organized group of Indians, including those tribes, bands or groups terminated since 1940 and those recognized now or in the future by the State in which they reside; or *(b)* a person who has a parent(s) or grandparent(s) who is such a member(s) of a tribe, or, *(c)* a person who is considered by the Secretary of the Interior to be of Indian descent for any purpose, or, *(d)* is an Eskimo or Aleut or other Alaskan Native.

As the MINIMUM requirement for eligibility, the student must have at least one *(1)* grandparent who is a tribal member as defined above.

Please complete and return to your child's *(homeroom)* teacher.

NAME OF PARENT OR LEGAL GUARDIAN	STREET ADDRESS	
	CITY AND STATE	ZIP CODE
NAME OF PUBLIC SCHOOL STUDENT ATTENDS	NAME OF STUDENT	
	GRADE	TRIBAL AFFILIATION
PARENT(S) TRIBAL AFFILIATION(S)	GRANDPARENT(S) TRIBAL AFFILIATION(S)	
THIS SIGNATURE CERTIFIES that the information given above is accurate and true and that the tribal affiliation is in accord with the definition given.	SIGNATURE OF PARENT OR LEGAL GUARDIAN *(Signature of STUDENT, if age 18 or older)*	
This form may be released to, and examined by, the Indian Parent Committee.	DATE SIGNED	

LEA GUIDELINES FOR INDIAN STUDENT ENROLLMENT CERTIFICATION

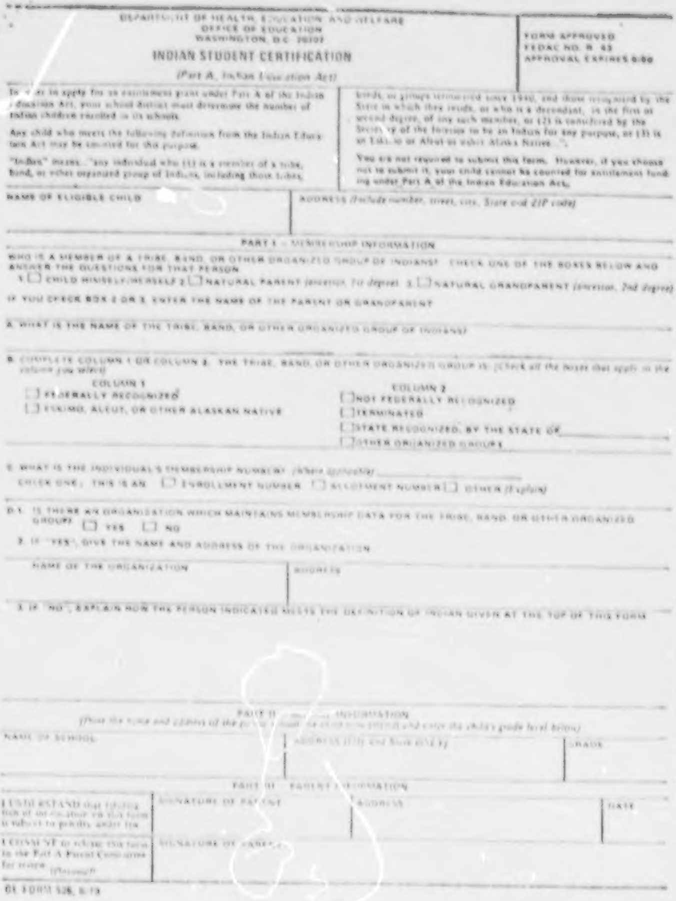
1. No child will be eligible for services unless this form is provided containing a signature of the legal parent or guardian or of the student, if age 18. The tribal affiliation must also be provided.

2. The accumulated forms will be turned over to the Parent Committee.

3. The Parent Committee will review all individual student forms gathered by the LEA. The signature by the parent or legal guardian or the student himself/herself, if age 18, shall be sufficient evidence to verify Indian student eligibility.

Telephone Number ____________________

OE FORM 508, 9/76



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

FORM APPROVED
FEDAC NO. R 43
APPROVAL EXPIRES 6/00

INDIAN STUDENT CERTIFICATION

(Part A, Indian Education Act)

In order to apply for an entitlement grant under Part A of the Indian Education Act, your school district must determine the number of Indian children enrolled in its schools.

Any child who meets the following definition from the Indian Education Act may be counted for this purpose.

"Indian" means..."any individual who (1) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940, and those recognized by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is considered by the Secretary of the Interior to be an Indian for any purpose, or (3) is an Eskimo or Aleut or other Alaska Native...".

You are not required to submit this form. However, if you choose not to submit it, your child cannot be counted for entitlement funding under Part A of the Indian Education Act.

NAME OF ELIGIBLE CHILD	ADDRESS *(Include number, street, city, State and ZIP code)*

PART I — MEMBERSHIP INFORMATION

WHO IS A MEMBER OF A TRIBE, BAND, OR OTHER ORGANIZED GROUP OF INDIANS? CHECK ONE OF THE BOXES BELOW AND ANSWER THE QUESTIONS FOR THAT PERSON.

1. ☐ CHILD HIMSELF/HERSELF 2. ☐ NATURAL PARENT *(ancestor, 1st degree)* 3. ☐ NATURAL GRANDPARENT *(ancestor, 2nd degree)*

IF YOU CHECK BOX 2 OR 3, ENTER THE NAME OF THE PARENT OR GRANDPARENT

A. WHAT IS THE NAME OF THE TRIBE, BAND, OR OTHER ORGANIZED GROUP OF INDIANS?

B. COMPLETE COLUMN 1 OR COLUMN 2. THE TRIBE, BAND, OR OTHER ORGANIZED GROUP IS: *(Check all the boxes that apply in the column you select)*

COLUMN 1	COLUMN 2
☐ FEDERALLY RECOGNIZED	☐ NOT FEDERALLY RECOGNIZED
☐ ESKIMO, ALEUT, OR OTHER ALASKAN NATIVE	☐ TERMINATED
	☐ STATE RECOGNIZED, BY THE STATE OF ______
	☐ OTHER ORGANIZED GROUPS

C. WHAT IS THE INDIVIDUAL'S MEMBERSHIP NUMBER? *(When applicable)* ______
CHECK ONE: THIS IS AN ☐ ENROLLMENT NUMBER ☐ ALLOTMENT NUMBER ☐ OTHER *(Explain)*

D.1. IS THERE AN ORGANIZATION WHICH MAINTAINS MEMBERSHIP DATA FOR THE TRIBE, BAND, OR OTHER ORGANIZED GROUP? ☐ YES ☐ NO

2. IF "YES", GIVE THE NAME AND ADDRESS OF THE ORGANIZATION

NAME OF THE ORGANIZATION	ADDRESS

3. IF "NO", EXPLAIN HOW THE PERSON INDICATED MEETS THE DEFINITION OF INDIAN GIVEN AT THE TOP OF THIS FORM

PART II — SCHOOL INFORMATION

(Print the name and address of the school in which the child is now enrolled and enter the child's grade level below)

NAME OF SCHOOL	ADDRESS *(City and State only)*	GRADE

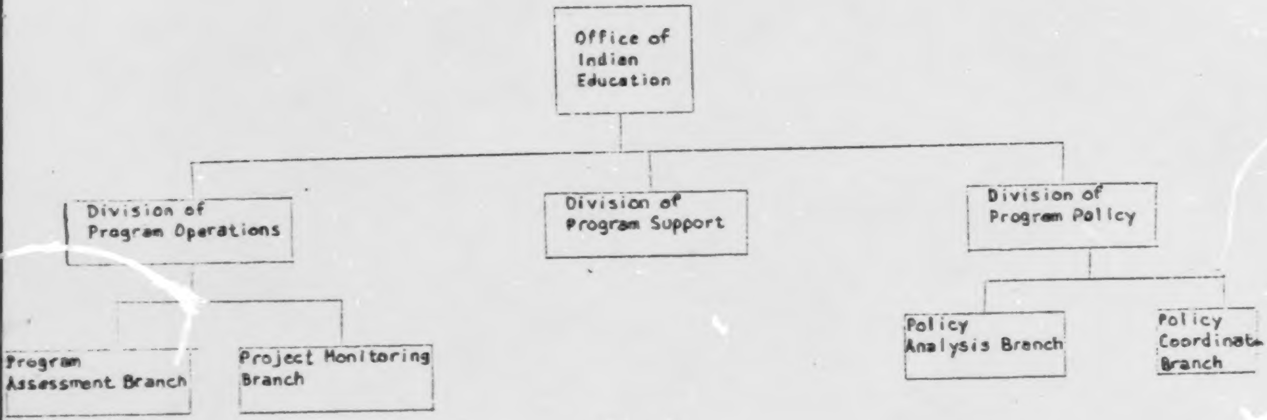
PART III — PARENT INFORMATION

I UNDERSTAND that falsification of information on this form is subject to penalty under law.	SIGNATURE OF PARENT	ADDRESS	DATE
I CONSENT to release this form to the Part A Parent Committee for review. *(Optional)*	SIGNATURE OF PARENT		

OE FORM 526, 8-73

PROPOSED REORGANIZATION OF THE OFFICE OF INDIAN EDUCATION:

DRAFT


Office of Indian Education
Division of Program Operations
Division of Program Support
Division of Program Policy
Program Assessment Branch
Project Monitoring Branch
Policy Analysis Branch
Policy Coordinate Branch

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

December 29, 1978

Dear School Administrator:

I am writing to inform you that under section 1146 of the Education Amendments of 1978, (P.L. 95-561), an Indian tribe or an organization which is controlled or sanctioned by an Indian tribal government is considered an LEA under section 303(a) of P.L. 81-874 (Part A of the Indian Education Act) if it operates a school for the children of that tribe and that school meets either of two requirements. First, the school qualifies if it provides an educational program that meets the standards to be established by the Bureau of Indian Affairs (BIA) in accordance with P.L. 93-638, the Indian Self-Determination and Education Assistance Act. Since those standards will not be established by the BIA before February 15, 1979, which is the closing date for submitting proposals for fiscal year 1979 grants, a school will not be able to qualify on the basis of those standards for fiscal year 1979 grants. Second, a school qualifies if it is operated by the tribe or tribal organization under a contract with the BIA in accordance with P.L. 93-638, the Indian Self-Determination and Education Assistance Act.

The Office of Indian Education (OIE) has received a draft interpretation, which I am enclosing, from the Department of Health, Education, and Welfare's Office of General Counsel. The interpretation explains which provisions of the Part A statute and regulations apply to tribes and tribal organizations that operate schools under a P.L. 93-638 contract and that wish to apply under Part A of the Indian Education Act, for fiscal year 1979 assistance for those schools.

The enrollment formula for all LEAs, set forth in the Act, applies to tribal schools as well. The formula is based on the average per-pupil expenditure of LEAs in the State and the number of Indian children enrolled in schools of the applicant LEA. The formula is spelled out in the Act and in sections 186.21 and 186.25 of the Part A regulations. The estimated entitlement for the school year you operate is:

This estimate is provided so that you may develop your program based on that amount. Please note that this is only an estimate and that it may be changed in the final grant award document. It will be the responsibility of your school board or other governing board to notify the Division of Local Educational Agency Assistance, Office of Indian Education, by March 1, 1979 if there are any changes in the enrollment of Indian children.

The closing date for the submission of applications is February 15, 1979. A more detailed description of the procedures for submission of applications in the Notice of Closing Date is published in the Federal Register. A copy is enclosed for your reference. Also enclosed is a prepared label for your use in mailing your application to USOE, Application Control Center.

For further information, contact the Specialist for your State, Office of Indian Education at:

USOE/Office of Indian Education
400 Maryland Avenue, S.W.
FOB-6, Room 2167
Washington, D.C. 20202
(202) 245-2673, -2683, -9159 or
(202) 472-4214

Sincerely,

Hakim Khan
Hakim Khan, Director
Division of Local Educational
Agency Assistance
Office of Indian Education

Enclosure

Prepared Testimony of Dr. Michael P. Doss, Executive Director, The National Advisory Council on Indian Education

AMENDED STATEMENT

As Executive Director of the National Advisory Council on Indian Education, I would like to thank you Mr. Chairman for the opportunity to testify at the Oversight Hearing today regarding Title IV, the Indian Education Act of 1972. Our Chairperson, Ms. Viola Peterson, was unable to testify today, but asked that I extend her warm greeting to the Committee.

The testimony which I am about to present is intended to amend our earlier testimony presented by Ms. Peterson on June 15, 1979, at the hearing before the Committee on Education and Labor regarding the Implementation of Title XI of P.L. 95-561, the Indian Basic Education Act. I am happy to bring to the attention of the Committee the fact that three of the four concerns identified in our previous testimony are in the process of being resolved.

The first concern identified on June 15, 1979, was a lack of adequate communication and Indian community involvement in the design of the "Indian Resource and Evaluation Centers" proposed by the Office of Indian Education. These concerns were first brought to the attention of the Council at a field hearing hosted by our Technical Assistance, Research, and Evaluation Committee held on June 1-2, 1979, in Reno, Nevada. At the hearing, the Committee received direct comment from many members of the Indian community regarding the newly proposed "Indian Resource and Evaluation Centers," and it is significant to note that this was the first opportunity that Indian people had to present their feedback. Following the June hearing, which was tape-recorded and later transcribed, a letter was addressed to Dr. Gerald Gipp identifying the many concerns and recommendations expressed by the Indian community members who attended the hearing (SEE: Appendix A). The Council has agreed fully that technical assistance is needed by the Title IV grantees, and will continue to work closely with the Office of Indian Education to insure that the "process" by which the "Indian Resource and Evaluation Centers" is developed receives adequate input from those who are to receive such services. At our Council meeting held last week, July 16-18, 1979, in Bangor, Maine, one full day was spent with Dr. Gerald Gipp, Deputy Commissioner, Office of Indian Education, and his staff. A complete plan was presented to the Council and later approved by the Council, for the development and implementation of the proposed Indian Resource and Evaluation Centers. Nine public meetings will be held throughout the United States, for the purpose of obtaining Indian community input regarding both the proposed Indian Resource and Evaluation Centers and the proposed Office of Indian Education Regulations. Two members of the National Advisory Council on Indian Education will represent our Council at each of the nine public meetings to be held during the month of August (SEE: Appendix B). In addition, two representatives of our Council will attend the Title IV-Part A Conferences scheduled for September and October of this year. Our Council feels that this new plan will resolve our first concern identified at the last meeting.

The second concern identified on June 15, 1979, was a lack of adequate and timely information provided to the National Advisory Council on Indian Education by the Office of Indian Education regarding both current and new programs, such as the Indian Resource and Evaluation Centers, which our Council has been mandated by the Congress to review. We would like to state clearly that our Council has not suffered from a lack of communications with the Office of Indian Education, however, that we are working together to increase the level of communications in the days which lie ahead. In this regard, the Office of Indian Education will continue to attend all future meetings of the National Advisory Council on Indian Education, and our Council members have been encouraged by Dr. Gipp to call him personally for direct information or clarification regarding the activities of his office. As the new Executive Director of the National Advisory Council on Indian Education, I look forward to working closely with Dr. Gipp and developing a stronger working relationship.

The third concern which was resolved at the Bangor, Maine meeting, regards the definition of "Indian Eligibility," commonly referred to as the 506 Indian Eligibility Form. At the Bangor, Maine meeting, our Council had ample opportunity to offer our amendments to the new 506 Form being developed by the Office of Indian Education. Dr. Gipp has received the amendments from our Council to the current 506 Form.

One concern identified on June 15, 1979, has not been resolved, namely the absence of a separate line-item budget category for the National Advisory Council on Indian Education, separate and distinct from the budget of the Office of Indian Education at O.E.

As you know, all of the Presidential Councils have been designated separate agencies by the Government Accounting Office (SEE: Appendix C). Since we are an agency separate from the Office of Indian Education, we must reserve full discretion over budgetary matters for our Council.

The establishment of a separate line-item budget category would help preserve our needed autonomy to evaluate Indian programs and projects within the Department of Health, Education, and Welfare as per our Congressional mandate.

One final concern which was brought to the attention of both the Senate and House Subcommittees on Appropriations earlier this year, regards our budget. On the following page is a summarization of the NACIE funding levels from 1974 through 1978:

YEAR	BUDGET
FY '74	$232,800
FY '75	$225,000
FY '76	$230,000
FY '77	$100,000
FY '78	$150,000

Today, our financial needs surely are not less than those encountered by Mr. Dwight Billedeaux, Executive Director of the NACIE in 1974. Nevertheless, this year we were appropriated $150,000 for our use, approximately 64% of the initial FY 1974 budget of $232,800. Later, the Office of Indian Education granted us an additional $25,000 from their Salaries and Expenses Account, brining our yearly total to $175,000, or approximately 75% of our initial FY 1974 budget. Our request for the past two years has been $265,000, an amount which we feel is realistic, given our broadly mandated functions in P.L. 92-318, as described in our small blue brochure. By comparision, the estimated FY 1979 budgets fo five other National Advisory Councils are identified below:

FY 1979 ESTIMATES

ADVISORY COUNCIL	ESTIMATED BUDGET
National Advisory Council on Vocational Education	$43[illegible],900
National Advisory Council on Women's Educational Programs	$31[illegible],000
National Advisory Council on Adult Education	$279,000
National Advisory Council on Education of Disadvantaged Children	$[illegible],000
National Advisory Council on Extension and Continuing Education	$264,000
National Advisory Council on Indian Education	$175,000

The National Advisory Council on Indian Education obviously ranks at the bottom of the list.

I have been in my new position as Executive Director for six months. However, I can clearly state to you today that it is impossible to fulfill all of our Congressionally mandated functions with our current budget. My office staff consists of only three members, all of whom are Indians.

However, there is only one professional educator, myself. My administrative Assistant is not authorized to act as my Associate Director in my absence, although I must at times travel to the field to personally contact Indian organizations, administrators, educators, and parents, in order to fully understand Indian educational needs. Our office Secretary is funded by CETA (Comprehensive Employment and Training Act) whose funds will expire in December, 1979. We must then utilize our limited resources to replace these needed funds, or lose our only Secretary. This is at a time when I could utilize two Secretaries for the amount of work that we have to complete.

In conclusion, the National Advisory Council on Indian Education has made every attempt to fulfill our Congressional mandate by maximizing the value of our limited budget. In fact, most our Council members have made personal contributions to this effort by conducting official Council business on their own time, and at their own expense. This demonstrates their deep commitment to Indian Education. However, we can only be as effective as our limited financial and human resources will allow.

Thank you.

APPENDIX A

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

July 25, 1979

Dr. Gerald Gipp
Deputy Commissioner
Office of Indian Education
U.S. Office of Education
FOB #6, Room 2177
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Dear Dr. Gipp:

The Technical Assistance, Research, and Evaluation Committee of the National Advisory Council on Indian Education would like to bring to your attention approximately 43 concerns brought forward by members of the Indian community attending the hearing in Reno, Nevada, on June 1-2, 1979. In addition, the Reno hearing participants identified at least ten major recommendations pertaining directly to the Indian Resource and Evaluation Centers which we would like to bring to the immediate attention of the Office of Indian Education. The concerns and recommendations are identified in the first three pages of enclosures in this letter. In addition, we have transcribed tapes of all the Reno hearing in order that you may be able to review the concerns of the Indian community in depth. This was not a modest effort due to the fact that nearly two weeks were required to complete the transcription of the Reno hearing.

The Technical Assistance, Research, and Evaluation Committee of the National Advisory Council on Indian Education would like to forward a request that you supply the Committee with a written statement regarding the manner in which the Office of Indian Education will respond to the concerns and recommendations in the development of the Indian Resource and Evaluation Centers. Certainly, the National Advisory Council on Indian Education shares the interest of the Indian community and the Office of Indian Education that the proposed Indian Resource and Evaluation Centers be designed such that their effectiveness is maximized to the greatest extent possible.

The Technical Assistance, Research, and Evaluation Committee of the National Advisory Council on Indian Education stands ready to provide the Office of Indian Education with their advice on the design of the proposed Indian Resource and Evaluation Centers. Please feel free to contact any of the members of the Technical Assistance, Research, and Evaluation Committee, or my office at any time that we may be of assistance to you.

Sincerely,

Michael P. Doss

Dr. Michael P. Doss
Executive Director

MPD:mah
Enclosures

PENN. BUILDING, SUITE 326 425 13th STREET, N.W. WASHINGTON, D.C. 20004

cc: NACIE Council

PART 1 - INTRODUCTION

The National Advisory Council on Indian Education, as you well know, is charged with the responsibility of reviewing the administration of all programs under Title IV of the Indian Education Act of 1972. In fulfilling our Congressional mandate, our Council from time to time finds the necessity for a field hearing to be conducted for the purpose of providing a forum of Indian input from throughout the United States. Following the April NACIE Council meeting held earlier this year, the Chairman of the Technical Assistance, Research, and Evaluation Committee of the National Advisory Council on Indian Education, Mr. Thomas A. Thompson, in consultation with four other members of that committee, including: Dr. Robert Swan; Ms. Violet Rau; Ms. Maxine Edmo; and Mr. Earl Oxendine, determined that there was a need for a field hearing for the purpose of requesting input from the Indian community with regard to the proposed Resource and Evaluation Centers of the Office of Indian Education. The need for this field hearing was based on at least two considerations. First, it was felt that the National Advisory Council on Indian Education had not had adequate information regarding the Resource and Evaluation Centers. Second, following numerous calls and letters from members of the Indian community, it was determined that the community itself had many questions regarding the Resource and Evaluation Centers. The Executive Director of the National Advisory Council on Indian Education, was instructed by Mr. Thomas Thompson, with the approval of Ms. Viola G. Peterson, Chairperson, to place in the Federal Register the dates of a field hearing to be held at the Holiday Inn Downtown in Reno, Nevada, on June 1-2, 1979. After placing this information in the Federal Register, the central office of the National Advisory Council on Indian Education immediately sent invitations to our complete mailing list of Indian organizations, tribes, and individuals. On June 1, 1979, at 9:00am, the field hearing related to Indian Resource and Evaluation Centers was convened.

PART 2 - AREAS OF CONCERN

There were approximately 43 concerns brought forward by members of the Indian community attending the Reno hearing related directly to the Indian Resource and Evaluation Centers proposed by the Office of Indian Education. These concerns can be broken down into two main categories. The first category may be identified as concerns regarding the Resource and Evaluation Centers as proposed by the Office of Indian Education. The second category may be classified as a concern about the best means of delivering technical assistance to Title IV Grantees. It is important that we discuss both of these concerns in order to derive the greatest value from the information collected at the Reno hearing.

A. CONCERNS REGARDING THE OFFICE OF INDIAN EDUCATION

It was brought out during the discussion that the Office of Indian Education is now suffering a lack of credibility. This is due in part to a feeling on the part of many of the participants at the hearing that the Office of Indian Education was making an "in house decision" with regard to the Resource and Evaluation Centers, which precluded community participation.

The Office of Indian Education had not consulted current grantees regarding their thoughts about the best way to deliver technical assistance, nor has it discussed this topic with the two technical assistance organizations, which are currently delivering technical assistance to Title IV programs throughout the United States. The Office of Indian Education had sponsored no additional hearings, prior to the one held in Reno, Nevada, with regard to these Indian Resource and Evaluation Centers, and there had been no provision for publishing of rules and regulations which would allow for a period of time during which Indian input or comment upon the rules and regulations could be made. There was a concern whether or not the Office of Indian Education had done its homework with regard to identification of needs and delivery options with regard to the provision of technical assistance to Title IV grantees. Many felt that there was a lack of creative thinking regarding new, or possibly better ways to deliver technical assistance than by the standard method of using regional centers.

B. CONCERNS WITH THE DELIVERY OF TECHNICAL ASSISTANCE

There were many concerns regarding the design of the proposed Indian Resource and Evaluation Centers. One of the concerns was the location of boundaries which would encompass the service area. Another concern was whether or not Indian preference would be guaranteed in the provision of Technical Assistance. People also wondered what the functions of the Resource and Evaluation Centers would be and whether they would include only technical assistance or other services. It was also wondered whether or not one center might be a mere duplication of another, thereby being a very wasteful means of delivering technical assistance. The overall number of centers was questioned along with the funding each of the centers would receive. It was questioned of whether or not there will be a national communication network established. And, it was felt that a working definition of "technical assistance" had to be established by the Office of Indian Education prior to discussing the center concept at length. Others felt that a needs assessment for each region for technical assistance might be in order. Some people wondered whether or not there will be travel restrictions with regard to the provision of technical assistance services. There was a concern whether there was going to be any planning for coordinating scarce resources allocated for these technical assistance centers. Also, it was felt that model programs had not been researched. And it was suggested that the "Teacher Corps Technical Assistance Design" might be utilized as a model for the development of the Centers. It was also brought out that there was a need for quality workshops to be provided by the Technical Assistance Centers for local grantees. It was also stated that the money for these centers should not be taken away from the kids current Title IV programs. The Technical Assistance Centers should also have a grievance policy. The presentors felt that the role of the Office of Indian Education central staff, the role of the National Advisory Council on Indian Education, and the role of the Regional Centers need to be clarified. It was the consensus that the technical assistance centers should not be granted to either state governments or universities, and the roles of the local educational agencies and the state needed to be further defined. It was felt that the technical assistance centers needed to capitalize on local individuals and programs in the delivery of services and that it should be the option of those served to request services from other centers which happen to have more expertise in [illegible] area of need. It was brought out that some local educational agencies don't need technical assistance everyday and some don't need technical assistance at all. It was emphasized that the technical assistance centers have adequate funds to hire consultants. Here it was recognized that the many consultants require substantial consulting fees, but that they also produce high quality work. Therefore, the technical assistance centers must have enough money to hire the best consultants. One presentor felt that the centers should definitely become involved in various types of research and data collection related to the needs of local educational agencies. Finally, it was made clear that the governing board of each center would be comprised of persons who are Indians.

PART 3 - RECOMMENDATIONS TO THE OFFICE OF INDIAN EDUCATION

The Reno Technical Assistance Workshop participants identified at least ten major recommendations regarding the Indian Resource and Evaluation Centers, which we would like to bring to the immediate attention of the Office of Indian Education.

First, it was recommended that the Office of Indian Education develop a plan for insuring that the Indian community will be directly involved in the design of the Indian Resource and Evaluation Centers. In order to be relevant to the Indian community, that community must have some ownership in the design of the centers.

Second, it was recommended that the Office of Indian Education explore the possibility of developing rules and regulations for the Indian Resource and Evaluation Centers concept.

Third, it was recommended that the Office of Indian Education explore alternatives for immediate delivery of technical assistance to local educational agencies, possibly including the continuation of extension of current technical assistance services offered by existing centers, until the new Resource and Evaluation Centers are established.

Fourth, it was recommended that the Office of Indian Education explore options available for the designation of boundaries which will define the service area of each proposed resource center.

Fifth, it was recommended that the Office of Indian Education develop a working definintion of "technical assistance."

Sixth, it was recommended that the Office of Indian Education define the specific functions of each center, in order to avoid duplication.

Seventh, the Office of Indian Education should define its role in the delivery of technical assistance.

Eighth, the Office of Indian Education should explore the possibility of other means of delivering technical assistance services such as the model developed by Teacher Corps, or others.

Ninth, it was recommended that the Office of Indian Education define the role of local educational agencies in the technical assistance centers concept.

And, tenth, it was recommended that the Office of Indian Education increase the levels of communications to the field throughout the development of the Indian Resource and Evaluation Centers.

APPENDIX B

FUTURE NACIE ACTIVITIES

OIE REGULATIONS HEARINGS

DATE	PLACE	NACIE EXPENSE	OIE EXPENSE
August 13	Akron, New York	Minerva White	Wayne Newell
August 13	Greensboro, North Carolina	Earl Oxendine	Ruby Ludwig
August 15	Minneapolis, Minnesota	Lionel Bordeaux	Viola Peterson
August 15	Tulsa, Oklahoma	Ruby Ludwig	Earl Oxendine
August 17	Bismarck, North Dakota	Lionel Bordeaux	Maxine Edmo
August 17	Phoenix, Arizona	Patricia McGee Wesley Bonito	Violet Rau
August 20	D-Q University	John Rouillard	Violet Rau
August 20	Seattle, Washington	Tom Thompson	Bob Swan
August 22	Anchorage, Alaska	Fred Bigjim	Bob Swan

NIEA CONVOCATION

			NIEA EXPENSE
August 13, 14	Denver, Colorado	Viola Peterson Michael Doss	Violet Rau John Rouillard

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TITLE IV CONFERENCES

October 1-5	New Orleans, Louisiana	Michael Doss Viola Peterson
September 24-28	Anaheim, California	Michael Doss John Rouillard

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KALISPEL MEETING

August 27-30	Kalispel, Montana	Viola G. Peterson Michael Doss

APPENDIX C

MEMORANDUM

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION

May 3, 1979

RECEIVED
5-4-79

TO: Martha Brooks
Deputy Director, Division of Personnel
Administration

FROM: Committee Management Officer

Thank you for giving me the opportunity to provide information for the Office of Education's response to Mr. Hamilton's April 17th memorandum on the Ethnics in Government Act. Mr. Hamilton wants information on two points: 1) recommendations as to which positions should be exempted from the "senior employee" designation and 2) recommendations for the designation of "separate agencies."

As I wrote earlier to Lois Hartman (see attachment A), [illegible] the Executive Directors of our Presidential advisory counc[illegible] exempted from the "senior employee" designation as def[illegible] regulations issued by the Office of Government Ethnics [illegible] my memo went to each Executive Director and as I have hea[illegible] concurrences with my proposal, I am recommending it ag[illegible]

Specifically, the employees of statutory Presidentially-appointed advisory councils, defined in and subject to Part D of the General Education Provisions Act, who would otherwise be classified "senior employees" because of their rank and/or salary should be exempted from this designation. The Councils are advisory in nature and are neither policy-making nor operational. Likewise, their employees are not involved in policy-making or operational activities. I am proposing that the positions be exempted as a class, but for your information, a current list of Executive Directors is attached (B). On the second point, the Presidential councils have already been designated separate agencies by GAO (see attachment C). They are quite clearly separate and distinct from HEW. Please let me know if you need any further information.

A.V.B.
Ann V. Bailey

2 Enclosures

cc: PAC Executive Officers without attachments
Jim Pickman

Mr. KILDEE. Dr. Doss, you are going to stay at the table for a separate statement?

Dr. Doss. Yes, sir.

Mr. KILDEE. Dr. Doss.

[The prepared statement of Michael Doss appears on p. 560.]

STATEMENT OF MICHAEL P. DOSS, EXECUTIVE DIRECTOR, THE NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

Dr. Doss. As executive director of the National Advisory Council on Indian Education, I would like to thank you, Mr. Chairman, for the opportunity to testify at the oversight hearing today regarding title IV, the Indian Education Act of 1972. Our chairperson, Ms. Viola Peterson, was unable to testify today, but asked that I extend her warm greeting to the committee.

Mr. KILDEE. Thank you very much. She is a very good friend and a valued counselor constituent of mine.

Dr. Doss. The testimony which I am about to present is intended to amend our earlier testimony presented by Ms. Peterson on June 15, 1979, at the hearing before the Committee on Education and Labor regarding the implementation of title XI of Public Law 95-561, the Indian Basic Education Act. I am happy to bring to the attention of the committee the fact that three of the four concerns identified in our previous testimony are in the process of being resolved.

The first concern identified on June 15, 1979, was a lack of adequate communication and Indian community involvement in the design of the "Indian Resource and Evaluation Centers" proposed by the Office of Indian Education. These concerns were first brought to the attention of the Council at a field hearing hosted by our Technical Assistance, Research, and Evaluation Committee held on June 1-2, 1979, in Reno, Nev. At the hearing, the committee received direct comment from many members of the Indian community regarding the newly proposed "Indian Resource and Evaluation Centers," and it is significant to note that this was the first opportunity that Indian people had to present their feedback. Following the June hearing, which was tape-recorded and later transcribed, a letter was addressed to Dr. Gerald Gipp identifying the many concerns and recommendations expressed by the Indian community members who attended the hearing. I have included the formal letter which was sent in appendix A. However, the rough draft of that letter was shared with Dr. Gipp after the June hearing. I also will be happy to submit to you the full transcript of the field hearing.

Mr. KILDEE. If you will submit that it would be appreciated. Subject to length, it will be included in the record.

Dr. Doss. I will be happy to.

The Council has agreed fully that technical assistance is needed by the title IV grantees, and will continue to work closely with the Office of Indian Education to insure that the "process" by which the "Indian Resource and Evaluation Centers" is developed receives adequate input from those who are to receive such services. At our Council meeting held last week, July 16-18, 1979, in Bangor, Maine, 1 full day was spent with Dr. Gerald Gipp, Deputy Commissioner, Office of Indian Education, and his staff. A complete plan was presented to the Council and later approved by the Council, for the development and implementation of the proposed Indian Resource and Evaluation Centers. Nine public meetings will be held throughout the United States, as you know, for the purpose of obtaining Indian community input regarding both the proposed Indian Resource and Evaluation Centers and the proposed Office of Indian Education Regulations. Two members of the National Advisory Council on Indian Education will represent our Council at each of the nine public meetings to be held during the month of August. I have provided at appendix B, a list identifying each of the members of the Council who will be attending the meetings. In addition, two representatives of our Council will attend the title IV-part A conferences scheduled for September and October of this year. Our Council feels that this new plan will resolve our first concern identified at the last meeting.

The second concern identified on June 15, 1979, was a lack of adequate and timely information provided to the National Advisory Council on Indian Education by the Office of Indian Education regarding both current and new programs, such as the Indian Resource and Evaluation Centers, which our Council has been mandated by the Congress to review. We would like to state clearly that our Council has not suffered from a lack of communications with the Office of Indian Education. However, that we are working together to increase the level of communications in the days which lie ahead between my office, the National Advisory Council on Indian Education, and the Office of Education. I am rather new on this job, and it takes a little bit of time for individuals working together to develop an effective working relationship. Personally, I am looking forward to developing a stronger working relationship with Dr. Gipp over the days and months ahead.

In this regard, the Office of Indian Education will continue to attend all future meetings of the National Advisory Council on Indian Education, and our Council members have been encouraged by Dr. Gipp to call him personally for direct information or clarification regarding the activities of his office.

There was a third concern raised which was resolved at the Bangor, Maine meeting, regarding the definition of "Indian eligibility," commonly referred to as the 506 Indian eligibility form. At the Bangor, Maine meeting, our Council had ample opportunity to offer our amendments to the new 506 form being developed by the Office of Indian Education. Dr. Gipp has received the amendments from our Council to the current 506 form and changes in the form itself. These changes have been forwarded to Dr. Gipp in a rough draft and will be forwarded today in typewritten form, and I think Dr. Gipp has had an opportunity to converse by telephone with Dr. John Rouillard, newly appointed Council member, and Mrs. Joy Hanley, both who worked on the revisions to the 506 form, so we provided the needed input into the design of the actual 506 form.

One concern identified on June 15, 1979, has not been resolved, namely the absence of a separate line-item budget category for the National Advisory Council on Indian Education, separate and distinct from the budget of the Office of Indian Education at O.E.

As you know, all of the Presidential Councils have been designated separate agencies by the Government Accounting Office. I have a reference to appendix C. Since we are an agency separate from the Office of Indian Education, we must reserve full discretion over budgetary matters for our Council.

The establishment of a separate line-item budget category would help preserve our needed autonomy to evaluate Indian programs and projects within the Department of Health, Education, and Welfare as per our congressional mandate.

One final concern which was brought to the attention of both the Senate and House Subcommittees on Appropriations earlier this year regards our budget. On the following page is a summarization of the NACIE funding levels from 1974 through 1978. In fiscal year 1974, we began our operation with $232,800; in 1975, it was reduced to $225,000; in 1976, reduced to $230,000; 1977, $100,000; 1978, $150,000.

Today our financial needs surely are not less than those encountered by Mr. Dwight Billedeaux, Executive Director of the NACIE in 1974. Nevertheless, this year we were apppropriated $150,000 for our use, approximately 64 percent of the initial fiscal year 1974 budget of $232,800. Later, the Office of Indian Education granted us an additional $25,000 from their salaries and expenses account, bringing our yearly total to $175,000, or approximately 75 percent of our initial fiscal year 1974 budget. Our request for the past 2 years has been $265,000, an amount which we feel is realistic, given our broadly mandated functions in Public Law 92-318, as described in our small blue brochure. By comparison, the estimated fiscal year 1979 budgets for five other national advisory councils are identified below:

FISCAL YEAR 1979 ESTIMATES

National Advisory Council on Vocational Education, $433,900;

National Advisory Council on Women's Educational Programs, $312,000;

National Advisory Council on Adult Education, $279,000;

National Advisory Council on Education of Disadvantaged Children, $279,000;

National Advisory Council on Extension and Continuing Education, $264,000;

National Advisory Council on Indian Education, $175,000.

The National Advisory Council on Indian Education ranks at the bottom of the list.

I have been in my new position as Executive Director for 6 months. However, I can clearly state to you today that it is impossible to fulfill all of our congressionally mandated functions with our current budget. One example I would like to cite is function No. 5 in the blue brochure, to provide technical assistance to local education agencies, and to Indian institutions and organizations to assist them in improving the education of Indian children.

With the staff of one professional educator, myself, one administrative assistant, and a secretary whose funds are provided by the CETA, it seems rather difficult to understand how we would be able to provide technical assistance. I can understand the optimism the Congress must have when they create legislation, that the Advisory Council would be able to do many things.

My office staff consists of only three members, all of whom are Indians. However, there is only one professional educator, myself. My administrative assistant is not authorized to act as my associate director in my absence, although I must at times travel to the field to personally contact Indian organizations, administrators, educators, and parents, in order to fully understand Indian educational needs. Our office secretary is funded by CETA—Comprehensive Employment and Training Act—whose funds will expire in December 1979. We must then utilize our limited resources to replace these needed funds, or lose our only secretary. This is at a time when I could utilize two secretaries for the amount of work that we have to complete.

In the last 6 months I know the Council has tried to fulfill as many of these mandated responsibilities as possible. However, we find ourselves falling short. This is even at a time when many of our Council members have at their own expense, talking in both time resources and financial resources, conducted official business of the National Advisory Council throughout the country. So I think the Council has demonstrated a commitment to Indian education.

They are willing to give freely of their time and their own money in order to try to accomplish the objectives set out by the Congress and also the goals they have set for themselves which relate directly to Indian needs.

In conclusion, the National Advisory Council on Indian Education has made every attempt to fulfill our congressional mandate by maximizing the value of our limited budget. In fact, most of our Council members have made personal contributions to this effort by conducting official Council business on their own time, and at their own expense.

This demonstrates their deep commitment to Indian education. However, we can only be as effective as our limited financial and human resources will allow.

Mr. KILDEE. Thank you very much, Mr. Doss, for your splendid statement and the growing cooperation indicated by that statement.

Do you feel that NACIE will be involved in the final regulation process?

Dr. DOSS. Yes, I do. We set that out in the plans that we had with Dr. Gipp and I see no reason why we will not follow through with that participation.

Mr. KILDEE. This committee is certainly happy to hear that. On page 3 you mentioned the question of Indian eligibility and the 506 form. Could you elaborate on some of the problems NACIE had with this section and how you feel they have been handled?

Dr. DOSS. Many problems were with the design of the form itself, some of the basic problems. I don't know if Dr. Gipp brought a copy of the revised form with him.

The form is structured in such a way that several members of our Council felt that it was very hard to fill out by members of the Indian community and it was very vague. It did not represent a good idea of their structure. There were some other changes that I am glad to share with you by giving you a revised copy of the 506 form.

Mr. KILDEE. We would appreciate that.

[The information requested follows:]

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

July 24, 1979

Dr. Gerald Gipp
Deputy Commissioner
Office of Indian Education
U.S. Office of Education
FOB #6, Room 2177
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Dear Dr. Gipp:

Please find enclosed a copy of the NACIE 506 Form as revised and approved by the full National Advisory Council on Indian Education at the meeting held in Bangor, Maine last week. In addition, you will be receiving a letter from Mr. John Rouillard, which will assist you in clarifying the items contained on this form. I believe that you have had an opportunity to talk both to Ms. Joy Hanley and Mr. Rouillard regarding the proposed NACIE 506 Form, and I hope that they have been able to answer all your questions regarding our recommendations.

If you have any further questions regarding the 506 Form as amended by the National Advisory Council on Indian Education, please feel free to contact me at your earliest convenience.

Certainly it would be appropriate that all the Council, including myself, receive a copy of the revised form (i.e. your original form plus the NACIE amendments) prior to the time that the new forms receives final approval by the Office of Education. By checking beforehand with our Council we may best insure that the finalized 506 Form is fully acceptable to the National Advisory Council on Indian Education.

Sincerely,

Mike Doss

Dr. Michael P. Doss
Executive Director

MPD:mah
Enclosure

PENN. BUILDING, SUITE 326 425 13th STREET, N.W. WASHINGTON, D.C. 20004

NACIE 506 FORM
(Title IV Indian Eligibility)

CHANGES -

1. boldprint
2. simplified instructions
3. common placement of check-off boxes
4. the penalty of perjury statement
5. provide a sample of the instruction page
6. consistent response statements
7. avoid "latin phrase" on app. page

TRIBAL MEMBERSHIP	YES	NO
Is the student a tribal member?	☐	☐
Is the parent(s) a tribal member?	☐	☐
Is the grandparent(s) a tribal member?	☐	☐

TRIBAL INFORMATION

Name of tribe(s) ______________________________(must be included)

Status of tribe:

Federally recognized ☐
Non federally recognized ☐
Terminated ☐
State recognized ☐
Alaskan Native ☐

ADDITIONAL INFORMATION FOR VERIFICATION OF ELIGIBILITY OF THIS STUDENT

Enrollment or census number(s) ____________________(if known) for

☐ Student him/her self
☐ Parent(s)
☐ Grandparent

Location of tribe or agency where this information is maintained:

____
____
____

Other pertinent information:

____
____
____
____

I certify that the information given above is accurate and true.

____
Signature of parent/guardian

____
____
Address

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

July 26, 1979

The Honorable Dale Kildee
Acting Chairman
Congress of the United States
U.S. House of Representatives
Committee on Education and Labor
Subcommittee on Elementary, Secondary,
and Vocational Education
B-346 C, Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Kildee:

Thank you once again for the honor of presenting Congressional Testimony this morning before the Committee on Education and Labor regarding Title IV of P.L. 92-318, the Indian Education Act of 1972.

As requested, I have enclosed several copies of the following documents prepared by the National Advisory Council on Indian Education for your review:

1. A letter sent to Dr. Gerald Gipp, Deputy Commissioner, Office of Indian Education, on July 25, 1979, containing the findings of our Technical Assistance, Research, and Evaluation Committee concerning our field hearing held on June 1-2, 1979, in Reno, Nevada, the purpose of which was to gather input from the Indian community regarding the newly proposed "Indian Resource and Evaluation Centers." Attached to this letter to Dr. Gipp are the following:
    - A. A narrative statement identifying the major concerns and recommendations brought forward by those members of the Indian community who attended the Reno hearing; and
    - B. A full transcription of the minutes of the Reno hearing, including appendices containing the written statements of the Indian presentors.
2. A one-page amendment to the Indian Eligibility Form (506), which contains our recommended changes in the 506 Form, currently utilized by the Office of Indian Education. Mr. John Rouillard, a recent appointee to our Council, has also sent Dr. Gipp a detailed

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letter suggesting further changes in the 506 Form. As soon as we receive a copy of this correspondence from Mr. Rouillard, I will forward several copies to your office via Mr. Alan Lovesee.

Our office stands ready to clarify any of the information provided to the Committee on Education and Labor today, upon request.

Respectfully yours,

Mike Doss

Dr. Michael P. Doss
NACIE Executive Director

MPD:mah
Enclosures

cc: Dr. Gerald Gipp, OIE
NACIE Council

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

July 25, 1979

Dr. Gerald Gipp
Deputy Commissioner
Office of Indian Education
U.S. Office of Education
FOB #6, Room 2177
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Dear Dr. Gipp:

The Technical Assistance, Research, and Evaluation Committee of the National Advisory Council on Indian Education would like to bring to your attention approximately 43 concerns brought forward by members of the Indian community attending the hearing in Reno, Nevada, on June 1-2, 1979. In addition, the Reno hearing participants identified at least ten major recommendations pertaining directly to the Indian Resource and Evaluation Centers which we would like to bring to the immediate attention of the Office of Indian Education. The concerns and recommendations are identified in the first three pages of enclosures in this letter. In addition, we have transcribed tapes of all the Reno hearing in order that you may be able to review the concerns of the Indian community in depth. This was not a modest effort due to the fact that nearly two weeks were required to complete the transcription of the Reno hearing.

The Technical Assistance, Research, and Evaluation Committee of the National Advisory Council on Indian Education would like to forward a request that you supply the Committee with a written statement regarding the manner in which the Office of Indian Education will respond to the concerns and recommendations in the development of the Indian Resource and Evaluation Centers. Certainly, the National Advisory Council on Indian Education shares the interest of the Indian community and the Office of Indian Education that the proposed Indian Resource and Evaluation Centers be designed such that their effectiveness is maximized to the greatest extent possible.

The Technical Assistance, Research, and Evaluation Committee of the National Advisory Council on Indian Education stands ready to provide the Office of Indian Education with their advice on the design of the proposed Indian Resource and Evaluation Centers. Please feel free to contact any of the members of the Technical Assistance, Research, and Evaluation Committee, or my office at any time that we may be of assistance to you.

Sincerely,

Michael P. Doss

Dr. Michael P. Doss
Executive Director

MPD:mah
Enclosures

PENN. BUILDING, SUITE 326 425 13th STREET, N.W. WASHINGTON, D.C. 20004

PART 1 - INTRODUCTION

The National Advisory Council on Indian Education, as you well know, is charged with the responsibility of reviewing the administration of all programs under Title IV of the Indian Education Act of 1972. In fulfilling our Congressional mandate, our Council from time to time finds the necessity for a field hearing to be conducted for the purpose of providing a forum of Indian input from throughout the United States. Following the April NACIE Council meeting held earlier this year, the Chairman of the Technical Assistance, Research, and Evaluation Committee of the National Advisory Council on Indian Education, Mr. Thomas A. Thompson, in consultation with four other members of that committee, including: Dr. Robert Swan; Ms. Violet Rau; Ms. Maxine Edmo; and Mr. Earl Oxendine, determined that there was a need for a field hearing for the purpose of requesting input from the Indian community with regard to the proposed Resource and Evaluation Centers of the Office of Indian Education. The need for this field hearing was based on at least two considerations. First, it was felt that the National Advisory Council on Indian Education had not had adequate information regarding the Resource and Evaluation Centers. Second, following numerous calls and letters from members of the Indian community, it was determined that the community itself had many questions regarding the Resource and Evaluation Centers. The Executive Director of the National Advisory Council on Indian Education, was instructed by Mr. Thomas Thompson, with the approval of Ms. Viola G. Peterson, Chairperson, to place in the Federal Register the dates of a field hearing to be held at the Holiday Inn Downtown in Reno, Nevada, on June 1-2, 1979. After placing this information in the Federal Register, the central office of the National Advisory Council on Indian Education immediately sent invitations to our complete mailing list of Indian organizations, tribes, and individuals. On June 1, 1979, at 9:00am, the field hearing related to Indian Resource and Evaluation Centers was convened.

PART 2 - AREAS OF CONCERN

There were approximately 43 concerns brought forward by members of the Indian community attending the Reno hearing related directly to the Indian Resource and Evaluation Centers proposed by the Office of Indian Education. These concerns can be broken down into two main categories. The first category may be identified as concerns regarding the Resource and Evaluation Centers as proposed by the Office of Indian Education. The second category may be classified as a concern about the best means of delivering technical assistance to Title IV Grantees. It is important that we discuss both of these concerns in order to derive the greatest value from the information collected at the Reno hearing.

A. CONCERNS REGARDING THE OFFICE OF INDIAN EDUCATION

It was brought out during the discussion that the Office of Indian Education is now suffering a lack of credibility. This is due in part to a feeling on the part of many of the participants at the hearing that the Office of Indian Education was making an "in house decision" with regard to the Resource and Evaluation Centers, which precluded community participation.

The Office of Indian Education had not consulted current grantees regarding their thoughts about the best way to deliver technical assistance, nor has it discussed this topic with the two technical assistance organizations, which are currently delivering technical assistance to Title IV programs throughout the United States. The Office of Indian Education had sponsored no additional hearings, prior to the one held in Reno, Nevada, with regard to these Indian Resource and Evaluation Centers, and there had been no provision for publishing of rules and regulations which would allow for a period of time during which Indian input or comment upon the rules and regulations could be made. There was a concern whether or not the Office of Indian Education had done its homework with regard to identification of needs and delivery options with regard to the provision of technical assistance to Title IV grantees. Many felt that there was a lack of creative thinking regarding new, or possibly better ways to deliver technical assistance than by the standard method of using regional centers.

B. CONCERNS WITH THE DELIVERY OF TECHNICAL ASSISTANCE

There were many concerns regarding the design of the proposed Indian Resource and Evaluation Centers. One of the concerns was the location of boundaries which would encompass the service area. Another concern was whether or not Indian preference would be guaranteed in the provision of Technical Assistance. People also wondered what the functions of the Resource and Evaluation Centers would be and whether they would include only technical assistance or other services. It was also wondered whether or not one center might be a mere duplication of another, thereby being a very wasteful means of delivering technical assistance. The overall number of centers was questioned along with the funding each of the centers would receive. It was questioned of whether or not there will be a national communication network established. And, it was felt that a working definition of "technical assistance" had to be established by the Office of Indian Education prior to discussing the center concept at length. Others felt that a needs assessment for each region for technical assistance might be in order. Some people wondered whether or not there will be travel restrictions with regard to the provision of technical assistance services. There was a concern whether there was going to be any planning for coordinating scarce resources allocated for these technical assistance centers. Also, it was felt that model programs had not been researched. And it was suggested that the "Teacher Corps Technical Assistance Design" might be utilized as a model for the development of the Centers. It was also brought out that there was a need for quality workshops to be provided by the Technical Assistance Centers for local grantees. It was also stated that the money for these centers should not be taken away from the kids current Title IV programs. The Technical Assistance Centers should also have a grievance policy. The presentors felt that the role of the Office of Indian Education central staff, the role of the National Advisory Council on Indian Education, and the role of the Regional Centers need to be clarified. It was the consensus that the technical assistance centers should not be granted to either state governments or universities, and the roles of the local educational agencies and the state needed to be further defined. It was felt that the technical assistance centers needed to capitalize on local individuals and programs in the delivery of services and that it should be the option of those served to request services from other centers which happen to have more expertise in an area of need. It was brought out that some local educational agencies don't need technical assistance everyday and some don't need technical assistance at all. It was emphasized that the technical assistance centers have adequate funds to hire consultants. Here it was recognized that the many consultants require substantial consulting fees, but that they also produce high quality work. Therefore, the technical assistance centers must have enough money to hire the best consultants. One presentor felt that the centers should definitely become involved in various types of research and data collection related to the needs of local educational agencies. Finally, it was made clear that the governing board of each center should be comprised of persons who are Indians.

PART 3 - RECOMMENDATIONS TO THE OFFICE OF INDIAN EDUCATION

The Reno Technical Assistance Workshop participants identified at least ten major recommendations regarding the Indian Resource and Evaluation Centers, which we would like to bring to the immediate attention of the Office of Indian Education.

First, it was recommended that the Office of Indian Education develop a plan for insuring that the Indian community will be directly involved in the design of the Indian Resource and Evaluation Centers. In order to be relevant to the Indian community, that community must have some ownership in the design of the centers.

Second, it was recommended that the Office of Indian Education explore the possibility of developing rules and regulations for the Indian Resource and Evaluation Centers concept.

Third, it was recommended that the Office of Indian Education explore alternatives for immediate delivery of technical assistance to local educational agencies, possibly including the continuation of extension of current technical assistance services offered by existing centers, until the new Resource and Evaluation Centers are established.

Fourth, it was recommended that the Office of Indian Education explore options available for the designation of boundaries which will define the service area of each proposed resource center.

Fifth, it was recommended that the Office of Indian Education develop a working definintion of "technical assistance."

Sixth, it was recommended that the Office of Indian Education define the specific functions of each center, in order to avoid duplication.

Seventh, the Office of Indian Education should define its role in the delivery of technical assistance.

Eighth, the Office of Indian Education should explore the possibility of other means of delivering technical assistance services such as the model developed by Teacher Corps, or others.

Ninth, it was recommended that the Office of Indian Education define the role of local educational agencies in the technical assistance centers concept.

And, tenth, it was recommended that the Office of Indian Education increase the levels of communications to the field throughout the development of the Indian Resource and Evaluation Centers.

Mr. **Kildee**. In Government—this is my 15th year in Government—generally one sees budgets, for good or for bad, going up. Your budget is generally going down, though it may be bouncing up a few dollars and then going down again.

Why do you think your budget has gone through a rather steady diminution?

Dr. **Doss**. I don't know that I can give a complete answer to that. Mr. Lovesee may have a better understanding of the entire history since he has been associated with the National Advisory Council for a longer period of time. I know that Congress has recently been concerned with National Advisory Councils in general in that perhaps they have not been as effective in providing the kinds of information Congress would like to receive.

I don't know if that is reflected in our budget or if that was part of the consideration taken into account in reducing our budget.

Mr. **Kildee**. Counsel, have you had a chance to compare the Advisory Council's budgets through the years 1974 through 1978. Is there a similarity with others?

Mr. **Lovesee**. Only on a very rudimentary basis Mr. Chairman. As you realize, there is a move to consolidate and do away with a great number of Advisory Councils. So it is a bit like comparing apples and oranges. That is heightened by the fact the Office of Education only suggested the retention of two particular Advisory Councils when they did their review of the ones in their realm.

One of those two was the National Advisory Council on Indian Education. What I am saying is that it is very hard to compare all advisory councils but generally they have not shown as much of a decrease, and I think we have taken a look at the funding for advisory councils which have been recommended for continuation.

I would venture to say the NACIE decrease is chief among those.

Mr. **Kildee**. Mr. Hinson, do you have any questions of Dr. Doss?

Mr. **Hinson**. No questions, Mr. Chairman.

Mr. **Kildee**. You will submit that Reno transcript for us?

Dr. **Doss**. Yes, sir.

Mr. **Kildee**. And also the revised 506.

[Witness indicated in the affirmative].

We appreciate your presence and testimony this morning.

Dr. **Doss**. Before I leave I would like to extend my congratulations and thanks for the sponsorship of the amendment to delete the BIA transfer from the Department of Education measure. I think it was a very monumental thing that occurred and an encouragement to me as a member of the Crow Indian Tribe to see the way the vote turned out itself.

Many of the members of the Council are concerned about Indian affairs and it is very encouraging.

Mr. **Kildee**. It was a good example, I think, to how the Indian community could influence the Congress. People like myself and Mr. Hinson worked on the floor and spent weeks calling other congressional offices, but it was so much easier for us to do that because the Indian community really spoke loud and clear as to what their feelings were on that.

I think that is an indication of what can happen in the Congress when the Indian community does speak up. We were happy to carry the message from the Indian community to the House floor.

Dr. Doss. You did an excellent job.

Mr. KILDEE. Our next panel will be Mr. William York, Tribal Council Education Committee Chairman, Mississippi Band of Choctaw Indians, and Mr. Adolph Jimmie of the Mississippi Band of Choctaw Indians.

We are trying to increase our input network. We appreciate that you contacted us and asked for a chance to testify today, because it does increase our pool of resource people.

If you have prepared testimony you may read it in its entirety or summarize it as you wish.

STATEMENT OF WILLIAM E. YORK, TRIBAL COUNCIL EDUCATION COMMITTEE CHAIRMAN, MISSISSIPPI BAND OF CHOCTAW INDIANS, ACCOMPANIED BY ADOLPH JIMMIE, COMMITTEE RESEARCH SPECIALIST

Mr. YORK. Thank you, Mr. Chairman, and members of the committee.

We did find out about this hearing a couple of weeks ago and through our Congressman Hinson, who we are very fortunate to have here working for us, we got him to put us on the agenda.

At this time on behalf of the Mississippi Band of Choctaw Indians, I would like to thank the House Committee on Education and Labor for permitting me to submit a testimonial concerning title IV and its implementation. Numerous programs at Choctaw have been affected and will continue to be affected by legislation such as title IV.

The intent of title IV as perceived by the Mississippi Band of Choctaw was in terms of a law that would increase supplementary grants and more participation by Indian parents in education. I would like to at this time summarize facets of Choctaw education that is dependent on legislation such as title IV.

As the BIA does not address any component of career education and the recent career education at Choctaw has been discontinued, there arises a need for career education at Choctaw. The BIA program does not address any formal comprehensive counseling program in any grades at Choctaw.

In an evaluation of the past career education program, 90 percent of the 12th grade had access to career counselors. Without career education the schools will not now have any form of a Career Resource Center. The Career Resource Center that was in existence with the career education program was extensively used by the students as well as the school personnel. Now this center will have to be closed.

When the career education program was still operational, a curriculum specialist continually developed and refined the objective of a career education curriculum, including technical assistance to the teachers.

Another component of the career education program was a comprehensive art program cooperatively developed with BIA. One program, the Nanih Waiya, a fox-fire-type program at Choctaw is nationally recognized, but now this will also be limited.

Without career education the high school students and school personnel will not have adequate access to a career information program. At Choctaw with career education this was available as a one-semester course. Within this course information related to entering college or other higher educational institutions was made available to the students. Now this information may not be made available.

I would like to go into the Indian scholarship program.

The Indian scholarship program needs to develop a mechanism where more students who wish to attend colleges and universities would have up-to-date information about where, when and how to apply for title IV—Indian scholarships.

Advertisement in the Federal Register only does not meet the need for adequate information and communication with Indian students.

Better coordination and communication are needed by the BIA higher education programs where most Indian students apply for scholarships with the title IV Indian scholarship programs. Most students have expressed a need for assistance in applying for scholarships, especially requiring a detailed budgeting information.

Directors of tribal higher education need to receive bulletins, brochures and other media which would enhance the Indian scholarship program. Publications clearly delineating the purpose and services provided by the title IV—Indian scholarship program should be made available to each tribal higher education office.

There is a great need for Native American Indian communities to develop their own community education model with which to tackle societal, psychological and economical problems of the contemporary technological environment. Community education can provide the process through which these communities may improve their decision—making skills for building viable plans toward economic stability.

The Mississippi Band of Choctaw Indians consists of six recognized communities, cultural structure and distance, especially in the midst of an energy crisis, create a need for six separate community coordinators with a director. The coordinators would be from their own communities. Any training should be on-site on the reservation. A maximum of 5 years should enable the community education development to establish a viable process.

In a bilingual/bicultural environment, changes and development do not necessarily occur at the same rate as in the contemporary urban society.

A model program which affords opportunities for reservation communities to retain their own identity while at the same time meeting their basic needs could be utilized by any and all Native American Indian Reservations.

A grand total of a 5-year project would estimate about $675,000, an average of $135,000 per year.

One of the most pressing needs in Native American education is the development of appropriate materials for the classroom. This is especially critical where the children are predominantly of limited English proficiency, requiring bilingual education.

Although under these circumstances Spanish or Italian speaking children can be served by ordering the required classroom materials from large publishing houses, either in the United States or abroad. Such materials are not available for the majority of Native

American languages. That which has been published is very limited in scope, quality, applicability, or all three.

Of a total of 411 children expected to be enrolled in the BIA-operated Choctaw schools 1 through 3 this fall, only 8, or roughly 2 percent speak English well enough to follow a normal all-English curriculum.

It is generally accepted educational principle that children learn only when they are capable of processing the information being presented to them: in other words, they must understand the language of instruction.

Thus, for a Choctaw-speaking child to profit from the educational system, adequate linguistically appropriate materials must be developed.

Under the auspices of title VII—the Bilingual Education Act—some money is available. Nevertheless, it falls far short of our needs. For fiscal year 1979-80 we have been allocated only $1,500 for materials and supplies for the development of Choctaw instructional materials. This will barely cover the duplicating costs of a fraction of our materials for one grade level.

This is not to mention the fact that it is absolutely imperative that we develop our own materials for the teaching of English as a second language. The differences between the Choctaw language and English are much more profound than the more superficial differences between, say, English and Spanish. We have found that we cannot trust ESL programs which are designed principally for Spanish speakers. We must develop our own.

All of these materials and curriculum development efforts require support which are not currently available to native Americans. In fact, the current rules and regulations, not to mention legislation, in bilingual education, are largely biased in favor of the Spanish speaker, and against Native Americans. It is urgent that more materials development money be appropriated under the Indian Education Act.

The adult education program at Choctaw has been a success since its inception in 1973. Although this part of the testimony is limited and therefore does not reflect the gravity of the situation I would like to expand on our adult education program.

Until 1964, Choctaw adults did not have an opportunity to attend a high school. The Bureau of Indian Affairs constructed Choctaw Central in 1964 and civil rights legislation opened the public schools for the Choctaw people.

Ninety-five percent of the population use the Choctaw languages as their dominant medium of communication.

Seventy-seven percent of the adult population, ages 20 to 65 years, have completed less than 12 years of formal schooling.

Fifty-five percent of the adult population, age 20 to 65 years, have less than 8 years of formal schooling.

There is an unemployment rate of 36 percent of a labor force of approximately 1,500.

Twenty-three percent of those adults who have completed their high school education did so through the Choctaw adult education program—147 of 622 or 23 percent in fiscal year 1978.

The anticipated cost for operating an effective comprehensive adult education program is $300,000 per year.

Choctaw adult education program achievements for fiscal year 1979: 489 Choctaw adults participated in the program, 327 in the adult basic education component and 162 in preparation for the GED.

Thirty-nine participants earned their GED.

Sixty-five adult learners participated in field testing—English Proficiency Test for Resource Development Institute.

These are just some indication of the need to continually fund our adult education program as well as other programs that can be funded under title IV, if adequate appropriations are made available.

With the recent cutback in BIA education and having to face other programs that may not be refunded, we must seek other alternatives. We are in support of title IV, Indian Education Act, for this could be the only means of reaching our educational goals in this era.

After the third year of program funding was over we were not refunded for the program. It is through the BIA's system that there was supposed to be a phase-in, phase-out. With all the cutbacks that BIA has had in their education program they could not absorb the program we have had, so when the program was not refunded we are feeling a deficiency to provide adequate awareness of career development as well as what is beyond after you finish high school.

Mr. **Kildee**. Thank you very much, Mr. York.

Mr. **York**. This is Adolph Jimmie, committee research specialist.

Mr. **Kildee**. Does he wish to testify or be prepared for questions?

Mr. **Jimmie**. I have nothing to say.

Mr. **Kildee**. Just for my own background, you have a BIA high school in your area and also a number of your students attend the public schools there.

What percentage in your area attend the BIA school, roughly, and what percentage would be attending the local public schools?

Mr. **Jimmie**. I would have to say approximately 20 percent attend public schools and only one school that we have in the State is granted JOM money. The immediate area schools do not apply for JOM and I believe social services picks up the money to provide the assistance to go to these public schools, but we have only one school that does apply for JOM and does get JOM. It is not part of title IV.

We feel as if more money was granted to us, we could better able afford education for our kids.

Mr. **Kildee**. Are there BIA elementary schools?

Mr. **Jimmie**. Right. We have six different elementary schools.

Mr. **Kildee**. These are BIA schools?

Mr. **Jimmie**. Right. You have to understand in Mississippi it is more of a checkerboard situation. Our communities are in an area of approximately 120 miles radius, and within this 120 miles there are six different communities and each area has an elementary school and one high school.

But the situation of this checker board State gives some problem where there is an inconsistency from one school to another when they come to the high school. There is no continuity in the level of education that they get.

Mr. Kildee. In the public schools where you have Indian students, which programs are they utilizing for Indian education?

Mr. York. The school that he mentioned that is getting assistance under JOM is the one in Jones County. Unless the other public schools are applying for educational assistance under the Indian education program, our kids are going to that public school, but the closest school that we have, I am aware of, is not getting any assistance, and has not applied for it.

So far as getting assistance, its parents are covering the expense of their child going to that public school.

Mr. Jimmie. Under subpart A of title IV, if they apply, I do not know.

Mr. Kildee. Do you know how many qualify for title IV who don't qualify for JOM?

Mr. Jimmie. The public schools that we have do qualify for JOM. It is that they do not apply for JOM. They may also not apply for part A of title IV.

Mr. Kildee. Is that because they are not familiar with the programs?

Mr. Jimmie. I believe they are well aware of the programs that exist. They don't make any effort to go out and seek this support.

Mr. Kildee. Have you talked to any of the public school superintendents or board members as to what your feelings might be in this matter?

Mr. York. We have worked with some of the parents that do have kids in the public school: These funds are available for your use while your child is attending public school. But it seems to me like some of those points brought out a while ago that public school is not making an attempt to apply for such assistance and one stipulation they must have PAC members, so I think that is the hangup, applying for it and then having to deal with the parents advisory council to help plan and monitor the funds that is getting through the Indian education program.

Mr. Kildee. Do you know if any of these families receive impact aid?

Mr. York. I am not aware if they are.

Mr. Kildee. Apparently there may be a problem of trying to make them aware of some of the programs that are available for Indian education. We will, as a subcommittee, be glad to work with you and see what information can be helpful.

Mr. York. I think as well as public schools some of the tribal education components on our reservation do have communication as far as what is available and what is not.

A higher education program where they assist students who want to continue higher education, the director was not knowledgeable of what can be provided in the title IV scholarship fund. Some of these things I think are just getting them together and have a bit of communication to channel this through the reservation.

Mr. Kildee. We will be happy to work with you to see what can be done to improve this situation. We do authorize and appropriate Federal dollars in various programs. We would like to get those dollars out to the people for whom they were intended. The staff will contact you and see what possibilities can be arranged.

Mr. Hinson.

Mr. HINSON. Thank you, Mr. Chairman.

Mr. York, I thank you for coming. It is a very fine statement and very eloquently expresses the educational needs and problems of the Mississippi Choctaws and in a way expresses some of the problems American Indians throughout the country encounter.

I can speak with some authority to the extent that public school administration in the State of Mississippi has not by seeking Federal assistance encouraged the participation of Choctaw students. This has the effect of keeping the Choctaws segregated. It keeps them out of the mainstream of educational development.

The problem is further exacerbated by the fact that there are several different language groupings or dialects within the Choctaws themselves. Apparently one Choctaw won't quite understand what another is saying even though they may only live 10 miles apart.

I personally am going to take it upon myself to make sure the public school administration in the area that is affected is aware in detail of the kind of assistance that is available to them and to encourage them to take whatever steps necessary to qualify for and acquire this Federal assistance.

The problems with the Mississippi Choctaws are in a way unique in that the Choctaw nation was split into two in the 1830's when the nation was forcibly removed to Oklahoma. A substantial number of Choctaws remain in Mississippi.

The educational problems are unusual but in that our State administration, and our local administrations have failed to recognize problems of groups such as those that were left behind in Mississippi and to encourage not only your own language proficiency at a time when we are concerned with American Indian language dying out but an adequate level of bilingualism as well, and attendant problems of employment.

The fact is that 36 percent of the Choctaw adults are unemployed. I appreciate your coming. I have worked, I believe, with your father in the past. I believe your father is Emmett York. Is that correct?

Mr. YORK. Yes.

Mr. HINSON. I have worked also with Chief Isaac. I believe this problem is desperately in need of solution and this committee is going to address itself to the problem and the questions you have raised here in an effort to make sure the Choctaw schools of Mississippi, the Office of Education here, the State agencies and the local education agencies are made aware of their responsibilities and opportunities.

Mr. YORK. I thank you.

Mr. KILDEE. We appreciate having both of you and we will certainly work closely and also the staff and Mr. Hinson to do everything possible to improve the quality of education for the Choctaws in Mississippi.

I really become very personally involved when I see situations that you have shown to us this morning. It does give me added incentive to give more of my time and energy to assist in efforts in this area.

Your trip to Washington has given me some insight and heightened my motivation to work in this area.

Do counsel have questions?

[Indications in the negative.]

Thank you very much for your testimony.

Mr. **Kildee**. At this moment we have a vote over in the House so Mr. Hinson and I will go over and cast our vote.

[Brief recess.]

Mr. **Kildee**. Our next witnesses will be Ken Maynor, chairman, Lumbee Regional Development Association, Pembroke, N.C., and Mr. Bruce Jones, North Carolina Commission on Indian Affairs, Raleigh, N.C.

During the debate on BIA schools, Congressman Rose brought very strongly to our attention the situation with the Lumbee Indians. I indicated to him I was very interested in working with him and the Lumbee Indians to help provide the services that the Federal Government has for various Indian people.

We welcome you here today.

Mr. **Jones**. We appreciate that, Mr. Chairman.

STATEMENT OF KEN MAYNOR, EXECUTIVE DIRECTOR, LUMBEE REGIONAL DEVELOPMENT ASSOCIATION, PEMBROKE, N.C.

Mr. **Maynor**. I am executive director of the Lumbee Regional Development Association. I would like to correct the record.

Mr. **Kildee**. Very good. We have that for the record.

Mr. **Maynor**. Mr. Chairman, and other members of the committee, it is with great honor that I speak before you today to discuss the Indian Education Act. Lumbee Regional Development Association, tribal organization of the Lumbee Indians residing in North Carolina, currently receives funds under part B and part C of the Indian Education Act.

My comments are related to that portion of the act and some of the problems we see and experience in the implementation of title IV.

First, I would like to dispel the myth that the Lumbee Indians are mostly college graduates, highly literate, and highly employed in professional occupations. In comparison with other Indian tribes across the Nation you will find that the Lumbee people sustains one of the highest illiteracy rates and poorest educational attainment levels.

Because of our large population, about 30,000, we find that enormous numbers of our people are illiterate and that a sizable portion of our youth are either dropping out of public schools or are functioning at a level considerably lower than that of the general population enrolled in the same grade levels.

The Lumbee Indians, although recognized under the statutes of North Carolina and under the laws of this great Nation, are unable to obtain assistance from the Bureau of Indian Affairs. As a result, we have been totally dependent upon the State for the educational needs of our children.

With the passage of title IV, or the Indian Education Act, we have made great strides in narrowing the gap of our educational deficiencies. Still, a lot is left undone.

The main point I want to emphasize is that title IV, or the Indian Education Act, is the first and only legislative act that has provided us the opportunity to alleviate our own educational problems. This is true among the Lumbee Indians and other nonfederally recognized Indian tribes across the Nation.

One of the major weaknesses that we see under title IV implementation is the lack of ongoing technical assistance from the Office of Indian Education to grantees in areas such as program activity, planning, and management.

For example, there are several demonstration programs funded under part B and part C. We can safely assume that each of these programs are developing or improving upon curriculum materials, teaching techniques, testing materials, et cetera, all of which impact upon the educational processes of Indian children and adults.

Yet, we find a tremendous lack of information flowing to Indian tribes or organizations who could benefit from the expertise of the demonstration grantees or from the materials or methodologies developed through title IV demonstration programs.

It would be a burdensome task to require demonstration projects to carry on national dissemination efforts during the funding period when new or improved techniques are being tested. The role of the Office of Indian Education should be expanded in some way, whereby the expertise and knowledge of the demonstration programs could be disseminated through a well-defined system to Indian tribes and organizations.

Technical assistance should also be provided to the local grantee in adapting techniques and/or methodoligies tested and proven through the demonstration, research, and planning programs to local needs.

In a very meaningful sense, a lot of title IV funds going to local grantees in the way of consultants or employing staff to develop appropriate materials and technical assistance could be better utilized in educational services with a greater sharing of the expertise and accomplishments of the demonstration programs.

My next point concerns educational services, or more specifically, the extent to which they are available to the nonfederally recognized Indian tribes. On the local level, the Lumbee Indians, and I would daresay that most Indian people, perceive services as a more dire need in Indian education as opposed to highly academic hypotheses translated into research, planning, and demonstration programs. More funds need to be placed into educational services, particularly in areas where Indian children reside in rural low-income communities and attend public schools that offer little in the way of educational services.

The title IV regulations are weak in addressing such factors as the extent of poverty, the availability or inavailability of other special Indian assistance programs such as Johnson-O'Malley funds, and self-determination and education assistance funds, the number and percentage of adult illiteracy, and other key indicators of poor educational achievement and attainment as weighted factors in the discretionary programs.

There is no assurance that an Indian tribe with a substantially large population with a sizable portion of that population being functionally illiterate or poorly educated receives any more funds than a tribe with a substantially smaller population whose key indicators of educational need are considerably less.

The nonfederally recognized tribes, who are unable to receive services under the Johnson-O'Malley Act and the Self-Determination and Education Assistance Act, find it increasingly difficult to obtain Indian education grants. The majority of the nonfederally recognized Indian tribes reside in rural areas charcterized by high unemployment, poor public education, and lack of economic growth.

It is in these communities where Indian education is desperately needed primarily due to the historical lack of Federal assistance. If we need a new school in one of our Indian communities in Robeson County, or an improvement in the existing school facility, we must convince the local population or property owners, who are non-Indian, that a bond issue is needed.

That is a difficult task especially when the predominantly white schools are well equipped and the white population doesn't want to pay, through increasing local taxes which they mainly pay, for better Indian schools. If a preschool program is needed for Indian children to help them better compete in the early years of public education and strengthen the possibility of that child finishing high school, there are no funds to build or rent that building or pay teachers.

I could go on with other illustrations but I may summarize by this statement: Without the assistance of title IV, we the nonfederally recognized Indian people of this Nation, have little hope in improving the educational opportunities of our children. We cannot receive Indian Head Start programs; we cannot ask the Bureau of Indian Affairs assistance in better equipping our schools or educational programs—there simply remains very little hope.

Our recommendation to this committee in evaluating title IV would be to look carefully at the needs of the nonfederally recognized Indian tribes and the extent to which these tribes are assisted under title IV discretionary grants.

Surely, if the Office of Indian Education can establish set-sides under the Indian Education Act for Indian-controlled schools and school districts with a large concentration of Indian students, then a similar provision could be made to insure that the nonfederally recognized Indian tribes are benefiting under the discretionary programs. Thank you for your time.

Mr. KILDEE. Thank you very much.

Mr. Jones, do you wish to testify separately?

Mr. JONES. Yes sir.

[The prepared statement of Mr. Jones follows:]

PREPARED TESTIMONY PRESENTED BY A. BRUCE JONES, DIRECTOR, NORTH CAROLINA STATE COMMISSION OF INDIAN AFFAIRS, RALEIGH, N.C.

CHAIRMAN PERKINS, MEMBERS OF THE SUBCOMMITTEE, AND OBSERVERS:

As Director of the North Carolina State Commission of Indian Affairs, a state agency created by the North Carolina State Legislature to represent the interest and welfare of some 50,000 Indian people in the State of North Carolina, I am pleased to have the opportunity to submit testimony on behalf of twenty-five Title IV, Part A, one Part B and two Part C grantees in North Carolina. Additionally, as Chairman of the National Governor's Interstate Indian Council, I should like to also point out that my testimony is relevant to concerns and issues which affect Indian people not only in North Carolina, but across this Nation. As a member of the largest Indian group East of the Mississippi whose tribe, together with all other East Coast Indian tribes, bands and groups represent 200,000 Indian people, we are encouraged by your invitation to submit testimony reflecting the unique federal-Indian relationship of urban and rural non-reservation Indian people by reviewing our experience with Title IV legislation in North Carolina.

During the past two years, the North Carolina State Commission of Indian Affairs has consistently provided technical assistance to Title IV grantees, and this year, assisted a statewide organization comprised of Indian parents and Indian educators in securing a state charter as a state Indian organization to promote the improvement of education of Indian children enrolled in the public schools of North Carolina. Our Title XX project has recently conducted a mini-survey of Title IV operations and gathered input from LEA superintendents, Title IV project coordinators, and Title IV Parent Committee chairpersons and members in preparation for capacity building in the Indian community to better prepare our Indian leadership for a more effective role in the administration of Title IV programs. We are committed to continue this training and technical assistance through the North Carolina Consortium on Indian Education which is comprised of both former and current members of Title IV parent committees.

The unique federal-Indian relationship which prevails on the East Coast has given birth to the creation of state commissions responsible for Indian Affairs. In recent years, six state commissions have been created, by state legislatures, in Florida, Georgia, Maryland, Maine, Connecticut, Michigan and North Carolina. These state commissions are legal state entities charged with the responsibility of representing the needs, interests and welfare of Indian tribes, bands and groups who have never in the history of their existence been awarded programs and services by the United States Government because of their status as Indian people. While the Government has not denied their existence as Indian people, they have been denied equal protection and benefits as Indian people.

It is not my intent or purpose to trace the history of federal-Indian relationships of East Coast Indian people, for the scope of need, discrimination and deprivation has been well documented in the recent reports of the American Indian Policy Review Commission, and I would refer you particularly to Task Force Report #5 - Indian Education; Task Force Report #8 - Urban and Rural Non-Reservation Indians, and Task Force Report #10 - Terminated and Non-Federally Recognized Indians. These Task Force Reports address themselves to the special and unique needs of urban and rural non-reservation Indian people, a segment of our American Indian population which has been consistently overlooked in planning at all levels of government - local, state and national.

It is to this very point that I wish to address my testimony, the point being the effective coordination of Title IV legislation as proposed in the recently published rules and regulations of June 29th, and how this coordination can be maximized at local, state and national levels for effective program management and delivery of services to our Indian communities.

Again, let me reiterate that my comments and testimony are based on a mini-survey of discussion and a follow-up workshop with administrators, Title IV project personnel, and Title IV parent committee members and issues and concerns identified by the North Carolina Consortium on Indian Education representing Title IV grantees.

We commend the Congress and the U.S. Office of Indian Education for the clarification of previous rules and regulations governing Title IV as proposed in the new rules and regulations of June 29th. The proposed rules and regulations are indicative of input from the Indian community which has been voiced in regional technical assistance conferences and field project site visits. Specifically, the recommendations for multi-year funding and detailed responsibilities for LEAs and parent committees are two concerns which have been repeatedly voiced in conferences and meetings at all levels. While much the same intent was implied in previous rules and regulations, the proposed new rules and regulations now clearly delineate these responsibilities. As a precautionary measure, it would be recommended that administrative guidelines be further expanded to require documentation of such regulations as "authority of the parent committee in formulating policies and procedures" and "authority of the parent committee in review of the qualifications of and making recommendations concerning applicants for project staff positions." While the responsibilities are clearly delineated, they leave much to local interpretation as to the level of "involvement and participation" and guidelines should be specific to require more than minutes of meetings which are often "rubber stamping" of LEA policy by parent committees. Without further clarification and administrative directives, there is no guarantee that parent committees will be able to exercise their responsibility in the actual development of by-laws and job descriptions which will take into consideration the maximum utilization of local Indian talent and resources which are available in the local Indian communities.

DEFINITION OF INDIAN AND INDIAN PREFERENCE

The definition of Indian preference (186.4(b)) is contradictory to the criteria for eligibility as defined in (186.3). In the latter subsection, eligibility recognizes Indian tribes, bands and groups who have been terminated since 1940 and those recognized by the State in which they reside, those considered by the Secretary of the Interior to be Indian, and an Eskimo or Aleut or other Alaskan Native where as the former in defining Indian preference restricts this definition to Indian tribes and Alaskan Natives who are recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. Such contradiction is discriminatory to all Indian people who have no special federal-trust relationship and whose tribes, bands and groups are not "recognized" by the Secretary of the Interior. Such regulations would make it mandatory for Title IV projects to give preference in employment and training to Indian persons meeting one definition while serving a population meeting another definition. A recent researching of Indian legislation by Dr. Frank Ryan, Director of the American Indian Program at Harvard University, indicates that legislatively, the Federal Government, neither by treaty nor the U.S. Consitution, has the power to define Indian since this is an inherent right reserved to Indian tribes and a potential violation of the civil rights of Indian people whose tribes, bands and groups have existed for centuries but have never been recognized by the Secretary of the Interior. It is a matter of equal educational opportunity for all Indian people, recognized or unrecognized by the Secretary of the Interior, and one which blatently raises the question of Federal discrimination of Indian people based on their status as defined by the Federal Government, not by Indian people, but by the Secretary of the Interior. I strongly solicit your further investigation of this matter since it has implications for some 35,000 Indian people of urban and rural non-reservation status. Such illegal definition affects not only Title IV, but also many other federal programs and services to Indian people across this Nation. This matter also has grave implications for the Definition Study called for by the 96th Congress. Again, we agree that the definition of Indian should be reserved to Indian tribes, bands and groups as part of their sovereign right and their integrity as Indian people, and that the Definition Study should more aptly relate to how tribes, bands and groups identify themselves rather than being directed toward "slotting Indian people into various categories." It is a cruious fact that the Secretary of the Interior, whose department does not have legislative authority to do so, is proposing to define who is Indian for the Secretary of Health, Education and Welfare who is cearly mandated by law to provide equal educational opportunity for all children.

We are also concerned with the authority by which Indian preferenee is being applied, since it is our feeling that Indian preference should be applied to all Indian people at all levels, local, state and national, to ensure a diversity of concern and information in dealing with all Indian people.

INDIAN STUDENT CERTIFICATION

It is our understanding that a newly-developed Indian Student Certification Form is being developed for certifying Indian students for eligibility for Title IV services and that a complete re-certification process will be required. We also understand that this form is being revised in order to gather information for the Definition Study mandated by the 96th Congress. We find it questionable that current Title IV projects could not capably provide data from current certification files and their knowledge of their local Indian communities which they serve. Of what value is tribal enrollment numbers to the intent of Title IV legislation? Furthermore, many Indian students residing in urban and rural non-reservation communities are children of Indian parents and grandparents who left reservations through relocation projects or have never been tribally affiliated on tribal rolls and by tribal agencies, and who do not have such information available. Additionally, there are Indian tribes, bands and groups who have never been considered Indian for any purpose other than segregated schools, and even then, Indian people were given the opportunity and right, by local custom, to determine who was and who was not Indian. Several states recognized these tribes, bands and groups and provided for separate educational systems up until the mandate of school desegregation. The loss of these Indian schools disrupted the most revered social institution, next to the home and church, of Indian people. Title IV has helped Indian parents to assure that cultural and social values of the Indian community could be preserved in the educational setting in which they often still find themselves "aliens." I question if tribal enrollment numbers have been required as a prerequisite for enrolling all Indian children in the public schools. If not, what then is the purpose and need for such action at this time? Will such information also be required by SEAs and LEAs in making their annual reports to the Civil Rights Division of the U.S. Department of Health, Education and Welfare? I dwell on this matter because Title IV projects have consistently struggled to identify and certify the total Indian student enrollment for the past five years, and our concern is that a completely new re-certification process will be a setback in time which would best be spent in improvement and refinement of educational programs and services to Indian children. The newly-developed certification form is cumbersome to both project personnel as well as Indian parents, many of whom will resent the indepth questioning and will suspicion the intent, as many of us do, of the necessity for such information. Again, I would urge you to consider a study of the processes for recognition utilized by tribes, bands and groups, that you would honor the sovereignity and integrity of Indian people to define themselves, and extend the time limitation of the Definition Study to provide this information as well as to develop and implement a management information system which will be equitable to all Indian students as is the current certification process. I do not feel that the progress of Title IV and effective programs and services should be impeded when Indian people themselves best know who they are and have the sovereign right and integrity to identify themselves. If this data is really necessary, then may I suggest a less complicated management tool within a well-designed management information system to collect data and allow Indian parents and their children to proceed with the matter of educational programs and services.

DEMONSTRATION GRANTS

Again, we commend the Congress and the Office of Indian Education for a committment to demonstrating effective methods and techniques for the improvement of instruction to Indian children. However, we take issue with the definition and eligibility of "high concentration" which requires an enrollment of 300 Indian children and an Indian student enrollment of 80% (186a203). This criteria for eligibility for demonstration projects does not ensure that a variety of educational settings will be selected for effective demonstration which will reflect the diversity of the American Indian student population across this country. The majority of Indian students attending public schools would comprise from 5% to 20% of LEA student enrollments, and such criteria would severely restrict and limit demonstration to areas of great need. Few, if any, urban and rural non-reservation LEAs serving Indian student populations would be able to apply for demonstration grants under the proposed criteria for eligibility. With problems skyrocketing for Indian children in urban areas and for children leaving the reservation moving to urban areas and for rural non-reservation Indian children who have been forced to attend desegregated school districts, some demonstration effort is necessary to attack these problems. The social, political and economic climate will vary for these unique populations, and effective and representative demonstration should ensure that a sampling of each of these populations have an opportunity to share in this demonstration effort. Following the simple rule of majority, 51% would be a majority Indian student enrollment. Therefore, we recommend a revision of the criteria for eligibility for demonstration projects to 300 Indian students and 51% Indian students enrollment as well as provisions to ensure that one-third urban non-reservation LEAs and one third rural non-reservation LEAS and one-third reservation LEAs receive demonstration grants to reflect the need for diversified educational demonstration for a uniquely diversified Indian population.

PART B PROJECTS

1. Training and Educational Personnel Development

The current criteria for accepting proposals for Part B project for training and educational personnel development limits the opportunity for non-Indian institutions to apply for Part B projects. With such restriction, there is little or no opportunity for such training and staff development for prospective Indian personnel in urban and rural non-reservation areas where no Indian institutions exist. Such selective and restrictive criteria avoids the responsibility for this much needed adjunct to the Title IV, Part A programs and also neglects the need for training and educational personnel development for meeting the needs of Indian children who attend schools in urban and rural non-reservation areas. It also forces Indian people to relocate in order to avail themselves of such opportunities, and in many cases due to employment, family and other factors, relocation is impossible. A re-evaluation of this criteria should reflect the need for training and educational personnel development for all segments of our American Indian population and selective criteria for non-Indian institutions of higher learning and SEAs which have indicated a sensitivity to the special needs and problems of Indians and other minorities.

2. Regional Information Centers

The proposed rules and regulations do not provide for federal agency regional representation in the establishment of regional information centers. It is our opinion that the establishment of these centers could best serve the intent of the legislation by locating a minimum of one (1) center in each of the federal regional areas. In so doing, these centers would be more able to coordinate research and evaluation efforts with other federal regional offices serving a contiguous geographical area and thereby maximize coordination of services to avoid overlapping and duplication. Such location of the proposed centers would also provide maximum coordination of effort and all resources at the regional level. In order to ensure Indian input and involvement in the establishment of the proposed centers, preference should be given to Indian institutions, Indian organizations or, in the event neither exists, institutions which have demonstrated successful ability to address the needs and problems of Indian people and other minorities with tribal or community sanction. Consideration should be given to location of the proposed centers in the area of highest Indian concentration in the federal regional geographic area to be served.

In view of the proposed rules and regulations which will effect some much needed management changes such as multi-year funding, weighted criteria, and detailed steps to be completed, we feel it extremely important that the Regional Information Centers be charged with the specific responsibility for in-service and technical assistance to Title IV projects, with heavy emphasis on developing local Indian leadership skills and abilities in project administration and operations as well as parent committee orientation and training. Until Indian people are provided opportunities to develop such technical skills and abilities, the opportunities for Indian input and involvement will remain minimal. We strongly encourage that immediate action be taken to ensure that this vital concern be addressed at national, regional and state levels to ensure a smooth transition into the five year reauthorized Title IV funding period, and that immediate efforts be made to plan for annual follow-up state conferences, to be financed by the Office of Indian Education either directly or by sub-grants to state organizations, and involving the Office of Indian Education, private consultants, local expertise and Indian parent committees and project staff.

PART C

Indian Fellowship Program

The Congress and the Office of Indian Education are to be commended for expanding the areas of study and concentration in the Indian Fellowship Program as proposed in the June 29th rules and regulations. Again, this action was much needed and welcomed by the Indian community which has repeatedly voiced concern for expanding the areas of study. However, the proposed effort to base selection on financial need and the increased requirement for proof are areas of concern. As mentioned earlier, the recognition of the tribe, band or group should serve to identify an applicant as Indian. This process will be more complicated for some than others. There is a need to allow for diversity of tribal recognition to allow for submittal of such items as certification by a BIA agency, tribal agency, state agency, school records, birth certificates of the applicant or applicant's parents or grandparents, and any other official document attributing to documentation of Indian identity.

With regard to increased emphasis on financial need, it should be pointed out that the Indian Fellowship Program is the only federal aid available to urban and rural non-reservation Indian students for postsecondary and graduate education. In my home state of North Carolina, Indian students are not permitted to apply for financial aid as minorities in a formerly all-Indian institution where they comprise only 23% of the student enrollment, however, they are eligible to receive financial aid from white and black campuses. Should strict adherence to the financial aid scale be followed, it is highly possible that the majority of the fellowships should be awarded to urban and rural non-reservation Indian students who are ineligible to receive additional financial aid for Indian students through the Bureau of Indian Affairs. Although some Indian parents might be financially able to provide assistance for postsecondary education, the majority of Indian parents are not able to afford the out of area and high tutition costs for prestigious colleges and universities which afford courses of study in law, medicine, engineering and forestry, since many struggle to afford postsecondary educational opportunities for their children while living at home. Therefore, it is our recommendation that the requirement of proof be flexibile to include the types of information mentioned above and that consideration be given to the availability of other federal support and aid for postsecondary and graduate education for all Indian students as well as the availability, or unavailability, for the specified course offerings in local and out of area settings.

I realize that my testimony has been lengthy and I appreciate your indulgence. Moreso, I greatly appreciate the opportunity to present this testimony on behalf of North Carolina's 50,000 Indian people and the implications thereof for the 350,000 urban and rural non-reservation Indian people in this Nation. Let me assure you that this testimony does not reflect the extent of our plight for there are many Indian tribes, bands and groups who still do not share and participate in this progressive legislation. In summary, I would hope that this testimony would result in a re-thinking of the concerns as expressed, and create a new awareness of a very special and unique American Indian population who prior to Title IV legislation was ignored, discriminated against, and often, and in some areas still are, invisible except in our own Indian communities.

We sincerely believe that Title IV can bring dignity to Indian people and that the programs and services afforded through Title IV legislation can bring us from the "national tragedy" into the the twentieth century of American life. However, caution should be exercised to avoid a second tragedy in ignoring the civil rights of our Indian citizenry in defining for them who they are. Equality of opportunity should be the rule for all Indian people, just as for our Nation's non-Indian people, and we believe that this wasthe original intent of the Title IV legislation. Caution should also be excercised in developing bureaucratic procedures which will alienate public school systems, many of whom still view Title IV as add-ons, rather than meaningful and relevant programs and services and an opportunity, as intended in the original Title IV legislation, to establish more positive dialogue between Indian communities and public school districts.

We look to you, the members of the United States Congress, to take whatever action is necessary to justify our faith in equal educational opportunity, and to ensure the intent of Title IV legislation. Your willingness to allow me to represent these views as they affect urban and rural non-reservation Indian people is indicative of your concern, and hopefully a beginning of an increased committment and awareness to assure that all Indian people have an opportunity to be heard and to participate in decisions affecting them. We welcome the opportunity to continue to work with this Subcommittee in providing additional information as needed in future hearings and deliberations.

Respectfully submitted,

A. BRUCE JONES, DIRECTOR
NORTH CAROLINA STATE COMMISSION OF
INDIAN AFFAIRS

STATEMENT OF BRUCE JONES, NORTH CAROLINA COMMISSION OF INDIAN AFFAIRS, RALEIGH, N.C.

Mr. **JONES**. Mr. Kildee, Mr. Hinson, Mr. Jones staff, members of the subcommittee and others: As director of the North Carolina State Commission of Indian Affairs, a State agency created by the North Carolina State legislature to represent the interest and welfare of some 50,000 Indian people in the State of North Carolina, I am pleased to have the opportunity to submit testimony on behalf of 25, title IV, part A, 1 part B and 2 part C grantees in North Carolina.

Additionally, as chairman of the National Governor's Interstate Indian Council, I should like to also point out that my testimony is relevant to concerns and issues which affect Indian people, not only in North Carolina, but across the Nation.

As a member of the largest Indian group east of the Mississippi whose tribe, together with all other east coast Indian tribes, bands and groups represent 200,000 Indian people, we are encouraged by your invitation to submit testimony reflecting the unique Federal-Indian relationship of urban and rural nonreservation Indian people by reviewing our experience with title IV legislation in North Carolina.

In recent years, six State commissions have been created, by State legislatures, in Florida, Georgia, Maryland, Maine, Connecticut, Michigan, and North Carolina.

These State commissions are legal State entities charged with the responsibility of representing the needs, interests, and welfare of Indian tribes, bands, and groups who have never in the history of their existence been awarded programs and services by the U.S. Government because of their status as Indian people. They have been denied equal protection and benefits as Indian people.

We commend the Congress and the U.S. Office of Indian Education for the clarification of previous rules and regulations governing title IV as proposed in the new rules and regulations of June 29. Specifically, the recommendations for multiyear funding and detailed responsibilities for LEA's and parent committees are two concerns which have been repeatedly voiced in conferences and meetings at all levels.

While the responsibilities are clearly delineated, they leave much to local interpretation as to the level of involvement and participation and guidelines should be specific to require more than minutes of meetings which are often rubber-stamping of LEA policy by parent committees.

Mr. Chairman, in case it is hard to follow me, what I tried to do when I found out I had a limited time to present testimony, I lifted out from the document you have and tried to get some pertinent points that I thought I could make within the time-frame.

Mr. **KILDEE**. You may submit your entire testimony for the record and you may summarize as you wish.

Mr. **JONES**. I am not a specialist in title IV Indian education and Miss Ruth Woods, who directs the second largest title IV, part A in North Carolina for the Lumbees primarily prepared the document that you have.

I lifted out for the sake of expediency the points that I am now making so if it is cumbersome for you to follow, that is the reason.

Mr. **KILDEE**. No; that is fine.

Mr. **Jones**. The proposed rules and regulations do not provide for Federal agency regional representation in the establishment of regional information centers. It is our opinion that the estblishment of these centers could best serve the intent of the legislation by locating a minimum of one center in each of the Federal regional areas.

In so doing, these centers would be more able to coordinate research and evaluation efforts with other Federal regional offices serving a contiguous geographical area and thereby maximize coordination of services to avoid overlapping and duplication.

PART C—INDIAN FELLOWSHIP PROGRAM

The Congress and the Office of Indian Education are to be commended for expanding the areas of study and concentration in the Indian fellowship program as proposed in the June 29 rules and regulations. Again, this action was much needed and welcomed by the Indian community which has repeatedly voiced concern for expanding the areas of study. However, the proposed effort to base selection on financial need and the increased requirement for proof are areas of concern. As mentioned earlier, the recognition of the tribe, band, or group should serve to identify an applicant as Indian. This process will be more complicated for some than others. There is a need to allow for diversity of tribal recognition by a BIA agency, tribal agency, State agency, school records, birth certificates of the applicant or applicant's parents or grandparents, and any other official document contributing to documentation of Indian identity.

With regard to increased emphasis on financial need, it should be pointed out that the Indian fellowship program is the only Federal aid available to urban and rural nonreservation Indian students for postsecondary and graduate education.

I greatly appreciate the opportunity to present this testimony on behalf of North Carolina's 50,000 Indian people, and the implications thereof for the 350,000 urban and rural nonreservation Indian people in this Nation.

We welcome the opportunity to continue to work with the subcommittee in providing additional information as needed in future hearings and deliberations.

Mr. **Kildee**. Thank you very much, Mr. Jones, for your testimony.

We will direct questions to one of you, though the other's views are welcome.

Mr. Maynor, on page 3, you indicate that nonfederally recognized tribes find it increasingly difficult to obtain Indian education grants.

Could you tell us why it is increasingly difficult? Have there been any changes in the Office of Indian Education that have made that so?

Mr. **Maynor**. I think what was meant there was that we are only receiving B and C, and E. For us to get anything beyond that, we are not eligible for A, because that is LEA, but we are not eligible for demonstration grants, we have not gone into that area.

Mr. **Jones**. Mr. Chairman, I would like to make an additional remark. We submitted a proposal to the Office of Indian Education for part C, adult education, and we were turned down because we were a State agency and not an Indian organization. But I truly submit to you that the North Carolina Commission of Indian Affairs is one of the agencies which has followed the national policy of Indian self-determination and the Indian members are selected or elected from their communities by tribal consent and appointed by the Governor. But they make 15 members of a 22-member commission and there are only 7 State officials which could be outvoted at any time the Indian members choose.

We have tried to make this point. And the reason the Indian commission applied for the grant is, many of our other communities, unlike the Lumbees, are small, isolated pockets in rural areas, and we thought it would be more effective if we acted on behalf of the small tribes to get the grants and operate it, and administratively it would be less expensive and would not be a duplication of effort.

Mr. **Maynor**. We did submit two demonstration prints on title IV. They were not funded and as I stated, it was increasingly difficult, and I assume it could be because of the availability of money. Maybe they do not think we have the expertise to do this. So I feel it is difficult with anything but what we receive and I doubt we will receive any outside B and C.

Mr. **Kildee**. Before I go on, I wish to welcome Congressman Erdahl from Minnesota. I think he has Chippewa and Ottawa Indians up in his area. The Minnesota bands are related to the Michigan Indians.

Mr. **Erdahl**. I had the unique experience of testifying before the other body this morning, so I apologize for being late.

Mr. **Kildee**. You have beaten me. I have never had the privilege. I can hardly find my way over to the Senate.

Mr. Jones, was the denial of your commission due to something in the legislative policy?

Mr. **Jones**. It was an administrative decision.

Mr. **Kildee**. Do you think they were afraid to establish a precedent for other commissions which were not as broadly representative of Indians as yours?

Mr. **Jones**. I think so. There are other Indian agencies similarly controlled by non-Indians and they thought, possibly, they thought it would be a precedent. But I do not think one should be denied on that.

Mr. **Kildee**. You feel because you had some smaller groups spread throughout the State that your agency would best be able to handle that grant for them?

Mr. **Jones**. That is correct.

Mr. **Kildee**. The Lumbees, as such, are more concentrated in an area than say some of the other Indian groups?

Mr. **Maynor**. They are concentrated in Robinson and adjoining counties.

Mr. **Jones**. The other tribes are not dispersed, but you have groups like the Haliwas who are in the north part of the State in two counties of the State bordering Warren. You have the Coharies in Sampson County. If you do not have a map of North Carolina, you probably cannot relate to these, but these are in a two-county area, about 35 miles apart.

Then in a southeastern part of the State, you have the Waccamaw. They are a small, isolated group and number from 1,500 to 3,000.

We have three urban groups, one in Fayetteville, Greensboro, and Charlotte.

The Cherokees are not officially formal members of the commission even though the legislation has language for them. But we do advocate in their interest and we are proud of the Cherokee people in North Carolina. They have the uniqueness of being federally recognized and they are entitled to both title IV and to the BIA benefits as well.

Mr. KILDEE. Were the Lumbees and the Cherokees and the other Indian groups those who literally escaped Jackson's snare when he moved them to the West?

Mr. JONES. Yes, the only thing they have preserved is their language. The Cherokees and other groups in North Carolina were assimilated and lost that language. They were much smaller, probably, in numbers at that time. They had to go into hiding and survive the best way they could. At that time, it was in the swamplands of North Carolina.

Mr. KILDEE. Just another question for my own background. The Lumbees have applied for Federal recognition, have they not?

Mr. JONES. That is correct.

Mr. KILDEE. What is the status of that application?

Mr. JONES. I do not know that the Lumbees, you would say they applied for recognition. In 1953, the Congress recognized the Lumbees as Indians, but not for programs and services by BIA. That is known as the Lumbee bill or the Lumbee Act.

There was an attempt to amend that act to strike the last phrase from that because we felt it was discriminatory toward us as Indian people, but that act only named us as the Lumbee Indian People of North Carolina.

Congressman Rose introduced a bill that you referred to, I think, in the opening remarks, that would set forth the proper criteria for Federal recognition. It is hopeful if this passes the Congress that at that time we could make proper application and be officially recognized by those Federal standards. It would be a uniform set of standards. We could understand from our other brothers and Indian sisters that we do not want to open up the gates and allow other people where it may be questionable to their Indianness. But at the same time we feel the gate should not be closed on us because we have been discriminated against in North Carolina since our very existence. We are designated in North Carolina and I am well known in North Carolina as a Lumbee Indian. That was my birthright, yet the U.S. Federal Government does not recognize me as that, and it is very disheartening.

Mr. KILDEE. One further question, and then I will get back to the jurisdiction of this committee.

Is one of the reasons for this, and I cannot judge, really, Indianness, that historically that the Federal Government was not signing treaties with the east coast Indians? Was that a later historical development?

Mr. JONES. I think you are correct, sir. That is really, basically—and that we do not have land in trust. This is being superimposed on us. We have land, we own lots of land, but we own it individually.

Mr. **Kildee**. Each Lumbee family?

Mr. **Jones**. Each Lumbee family owns land.

Mr. **Maynor**. Not all.

Mr. **Kildee**. But that which is held is held individually, not by the community.

Mr. **Maynor**. Yes.

Mr. **Jones**. I would not want to lead the committee to think the Lumbees are affluent and not in need of services. We are not completely acculturated into the dominating society.

Mr. **Kildee**. Thank you for the background. I try to educate myself as often as I can into the background of these matters. Mr. Hinson.

Mr. **Hinson**. Mr. Jones, was there such a thing in history as a Lumbee Tribe 100 or 200 years ago?

Mr. **Jones**. I am sure there was, but it was not recognized as the Lumbee Tribe. In the legislative record in North Carolina we were known as the Croatan. We have been changed from the Croatans to Cherokees of Robeson County. More recently, an attempt was made to come up with a name, the Lumbee Indians, and that was taken from the name of a river near where the Lumbees reside, and not trying to trace it back to some existing tribe. Many, many years ago, tribes had members from several other tribes, and it is difficult to go back and sort out one tribe. Like say there is some evidence that we are descendants of the Cherokees, there is some evidence we are descendants of the Tuscarora, but there is nothing historically concrete that would lead you to believe that we go back to what is known today as some of the traditional tribes by name, as such. But we are the remnants that have always been in that area.

Mr. **Maynor** As far back as 1885, Indians of North Carolina have been recognized.

Mr. **Hinson**. What I understand you to say is while there is no identified long cultural line of Lumbees, the Lumbees represent the last remnants of the existing tribes which existed in that area and which were partially assimilated into the surrounding population. And you are seeking to reestablish Indian identify and culture among the Indian people of North Carolina.

Am I expressing that correctly?

Mr. **Jones**. That is correct. It was not popular to be Indian at one time in North Carolina, and many of our people tried to go for white.

Mr. **Kildee**. To what extent were the Lumbees assimilated into surrounding populations or other racial groups, white black, et cetera?

Mr. **Jones**. Not to a great extent. We had, in North Carolina, we had our own schools before the desegregation. We had our own Indian schools. Today you will find all Indians primarily attend Indian churches. That is not true just of the Lumbees, it is true of all the other Indian groups in North Carolina.

You can find Lumbees throughout Robeson County. They are in more densely populated areas within the county, but in some of these other counties, the Indians live in small clusters right together.

Mr. HINSON. What criteria did North Carolina apply? What percentage of blood is proof? And how do you go about proving that?

Mr. JONES. We do not use the blood quantum. We use the general guidelines of BIA, if an Indian is recognized in his community as an Indian, if he recognizes himself as an Indian.

Mr. HINSON. Therein at least you can find perhaps the source of substantial opposition in the United States of Federal recognition of the BIA. This is when a group has become so assimilated that it is no longer culturally recognizable as being a culture, no language or particular craft which identifies it as being clearly of a certain racial group, the lines blur and it permits a rather substantial amount of abuse, particularly at a time when American Indian aid programs are being increased and better funded, for a great more abuse and fraud for people to suddenly announce to the world they are Indians when in fact they have never lived or thought that way.

In my own personal background, maybe four generations back, there was a full-blooded Choctaw, but I was raised as a white man. I never saw an Indian in the flesh until I was about 16 years old. But under the same kind of situation in Mississippi, I could suddenly announce I was an Indian and qualify for Indian programs, if the State was not prepared to investigate it thoroughly.

I am concerned that these programs remain focused on American Indians. I have no problem in expanding the criteria if it would bring in people of American Indian descent who have lived or are culturally identified as American Indians. But when the line is so indistinct, it is an extraordinary thing. That is one reason I strongly support the idea of Indian preference and the idea that Indian aid programs be limited to those of one-quarter blood or more, or who have been in Indian communities, identified as such. In that sense, I must disagree with you, very respectfully, especially in your comments on Indian preference and perhaps in other areas of your testimony as well.

I think the idea that the Lumbees have been recognized by the State of North Carolina and by the Federal Government as an existing tribe does not necessarily entitle them to the Federal aid programs that go ordinarily to Indian communities which have retained their identities over the years since their first contact with the white man.

I appreciate your testimony. I do not entirely disagree with you. I think there are many Federal programs that could be of assistance to people in this category. But I am concerned and would like to express this concern that programs designed for American Indians be kept for strongly identified groups rather than for groups who can, if they wish, take advantage of those programs thereby weakening them and drawing funds away at a time when there is a major cutback in spending in all areas.

If you would like to address yourself to this long sermon I have given, you may.

Mr. JONES. It grieves me what you have said. As you said, you have your opinion and I have mine.

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It really grieves me that you made the statement that you made about a group of people. If you would take the time to go to North Carolina and look at what you are implying or how I interpret your implications, it is that we Lumbees are just coming out of the woodwork or we are Indians that are not pure-blood Indians. The degree of quantum is something that the Indians did not set up for themselves, and the Indians that are on reservations, sir, the enrollments, those were prison records in many cases, to keep track of the Indians as they moved them west, those kinds of numbers.

I indicate to you, sir, with all respect to your opinion, that we have been Indians just as long as any Indian who is on any reservation in this country, and we are as much Indian—if you check and use the kind of thing of blood quantum. If you want to go back and look at the Bureau of Indian Affairs records, you will find that they sent an anthropologist down in North Carolina and certified 22 people as having more than one-half blood Indian. Because something happened they called that person back to the Bureau of Indian Affairs and he didn't finish his mission.

I say to you, sir, that there are Indians that we speak of that are far more than one-quarter blood. It seems that we are only asking to be recognized for that which we have been denied.

We have been persecuted, discriminated against in the State of North Carolina. The record is clear. If you would like I would be glad to provide you with additional research.

To say that I don't have a language, and I am not an Indian is really difficult for me to accept.

Mr. Kildee. Could you provide the information and data that you referred to to the staff?

Mr. Jones. I would be most delighted to enlighten Mr. Hinson to show that we are not Indians coming out of the woodwork taking a piece of the pie. We would like to help the other Indians build a bigger pie. We are not trying to impinge on anyone else's territory. We just want to have what is rightfully ours.

Mr. Hinson. Mr. Jones, I also value enlightenment and I look forward to receiving the information.

Mr. Kildee. Please submit that to the committee.

I would like to come down to the area of Robeson County and look at the particular needs of the Lumbees in that area.

Just as a corollary to this, the Europeans who settled in North Carolina and their descendants have, through the years, considered you to be Indians. Is that true?

Mr. Jones. Yes, sir.

Mr. Kildee. Any burdens the Europeans have imposed upon the Indians in this country or in North Carolina you have had to bear?

Mr. Jones. Absolutely.

Mr. Kildee. Mr. Erdahl.

Mr. Erdahl. I have no questions.

Mr. Kildee. Either one of you may answer these questions but in Mr. Jones' testimony he said that some people, including yourself, suspect the intent of the certification form and the data collection. What do you think the intent is?

Mr. Jones. To speak to the issue Mr. Hinson was implying, to question whether a group of people that is not on a roll—there is a place on the form for a roll number. It looks like the Congress wants us to have a roll and I think we can develop the kind of roll on the same basis that the other rolls have been established.

The form as it is or some modifications of it is adequate to speak to the needs of a large population. We are speaking today here of the off-reservation, nonfederally recognized but there are a lot of Indians in this country in our same predicament.

When we address you, I think we do it in the name of many of those other people. It is just a cumbersome form that it will be hard for the people—I have administered a few instruments in my day and I find to a lot of people when you start prying into certain areas they withdraw.

I don't know the full extent of the intent of this form, but it looks as if it is moving it more in the direction that pretty soon they will come out with a form that states you are one-quarter blood.

Mr. **Kildee**. You think the intent to either now or in the future to establish eligibility rather than to gather data?

Mr. **Jones**. Yes.

Mr. **Kildee**. Mr. Jones, on page 6 you say a less complicated management tool within a well defined MIS should be used to collect the data needed.

Do you have any suggestions as to what this would be?

Mr. **Jones**. I don't at this time, Mr. Chairman.

I can take your question and forward to you and the committee what the intent of that might have been.

Mr. **Kildee**. I have no further questions. Do either counsel have questions?

Mr. **Jones**. I appreciate your commitment and Mr. Hinson's and Mr. Erdahl's commitment to take the patience, the energy and the time to hear people out such as myself, so that the proper interpretation can be made, so that equitable benefits can be rendered to all the Indian people of this country.

It is really an inspiration to me to see your dedication. As an Indian person my desire is to work with you so that better benefits can be provided for all our Indian people in this country.

Mr. **Kildee**. I hope to be coming to your area.

Mr. **Jones**. You have an open invitation and I will make arrangements, gladly.

Mr. **Kildee**. Our next panel is Ms. Patricia Locke, representing the education committee, National Tribal Chairmen's Association, and Ms. Patricia Nelson, representing the Southern California Tribal Chairmen's Association, San Diego, Calif.

[The prepared statement of Ms. Locke follows:]

PREPARED STATEMENT OF PATRICIA LOCKE, ON BEHALF OF THE EDUCATION COMMITTEE, NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION

THE NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION (NTCA) IS PLEASED TO ADDRESS THE COMMITTEE ON EDUCATION AND LABOR REGARDING P.L. 92-318, THE INDIAN EDUCATION ACT. THE NTCA, WHICH IS THE ORGANIZATION OF THE ELECTED HEADS OF GOVERNMENT OF THE FEDERALLY RECOGNIZED TRIBES HAS BECOME INCREASINGLY CONCERNED ABOUT THE INDIAN EDUCATION ACTS' DIRECTION AND DIMINISHING BENEFITS TO THE TRIBES THAT ARE FEDERALLY RECOGNIZED.

THE NTCA EDUCATION COMMITTEE WHICH IS CHAIRED BY DR. RICK ST. GERMAINE, CHAIRMAN OF THE LAC COURTE OREILLE TRIBE AND WHICH IS COMPOSED OF TRIBAL CHAIRMEN AND THEIR DESIGNEES FROM THIRTEEN REGIONS IN THE UNITED STATES, PREPARED A LIST OF 16 QUESTIONS REGARDING THE EFFECTIVENESS AND SCOPE OF TITLE IV. FOR REASONS OF PROTOCOL AND BECAUSE N.A.C.I.E. IS CHARGED WITH ADVISING THE CONGRESS, THE SECRETARY OF HEW, THE ASSISTANT SECRETARY OF EDUCATION AND COMMISSIONER OF EDUCATION ON INDIAN EDUCATION PROGRAMS INCLUDING THE DEVELOPMENT OF REGULATIONS AND OF ADMINISTRATIVE PRACTICES AND POLICIES, NTCA PRESENTED THE 16 QUESTIONS TO N.A.C.I.E. AT THEIR COUNCIL MEETING IN WASHINGTON, D.C. ON APRIL 19, 1979.

THE NTCA'S INTENT WAS THAT THE QUESTIONS WOULD DELINEATE CRITICAL AREAS OF CONCERN THAT HAVE BEEN EXPRESSED BY THE FEDERALLY RECOGNIZED TRIBES OVER THE PAST SEVERAL YEARS. IT WAS HOPED THAT THE N.A.C.I.E. WOULD DISCUSS THE ISSUES AND WOULD THEN, THROUGH IT'S EXECUTIVE DIRECTOR, ADVISE THE ADMINISTRATION OF THE OFFICE OF INDIAN EDUCATION OF ACTION TO BE TAKEN OR ANSWERS NEEDED. IT WAS HOPED THAT N.A.C.I.E. WOULD THEN ADVISE THE COMMISSIONER OF EDUCATION, THE ASSISTANT SECRETARY OF EDUCATION, THE SECRETARY OF HEW AND THE CONGRESS, OF ITS CONCLUSIONS, THE RESULTS OF FACT-FINDING AND IT'S RECOMMENDATIONS TO MAKE TITLE IV, THE INDIAN EDUCATION ACT, TRULY RESPONSIVE TO THE FEDERALLY RECOGNIZED TRIBES OF THE UNITED STATES.

NTCA PRESENTED AND REQUESTED DETAILED RESPONSES TO THE FOLLOWING 16 QUESTIONS:

1. WHAT PROGRESS SINCE 1972 HAS THE NACIE MADE REGARDING THE DEFINITION OF THE TERM INDIAN?

2. CUMULATIVELY, SINCE 1972, HOW MANY NEW PERSONS NOT RECOGNIZED AS FEDERALLY RECOGNIZED INDIANS HAVE BEEN SERVED BY TITLE IV WHO IDENTIFY THEMSELVES AS INDIANS, AND WHO HAVE BEEN IDENTIFIED BY OTHER PERSONS AS INDIANS UNDER THE DEFINITION OF INDIAN IN TITLE IV (WHO ARE RECOGNIZED AS INDIANS BY STATES AND WHO ARE RECOGNIZED AS INDIANS BECAUSE THEY ARE "DECENDANTS IN THE FIRST OR SECOND DEGREE OF ANY MEMBER")?

3. WHAT IS THE AMOUNT OF DOLLARS SPENT SINCE 1972 ON PERSONS NOT FEDERALLY RECOGNIZED AS INDIANS?

4. IS NACIE AWARE THAT NUMEROUS FEDERALLY RECOGNIZED TRIBES, GRANTEES, CONSULTANTS HIRED BY GRANTEES AND OTHERS CONCERNED WITH THE ACCOUNTABILITY OF FEDERAL PROGRAMS HAVE REPORTED THAT THERE MAY BE LITERALLY HUNDREDS OF POSSIBLE ABUSES OF P.L. 92-318 BECAUSE PERSONS BEING SERVED UNDER THAT ACT ARE NOT, IN FACT, INDIANS?

5. WHAT DOES NACIE INTEND TO DO ABOUT SUCH ABUSES?

6. WHAT IS THE PROPORTION OF READERS HIRED IN 1979 BY THE DHEW OFFICE OF INDIAN EDUCATION OF RESERVATION INDIANS AS COMPARED TO INDIANS LIVING IN URBAN SETTINGS?

7. WHAT PLANS DOES NACIE HAVE TO ASSURE THAT READERS FROM RESERVATIONS ARE HIRED IN THE FUTURE BY THE OFFICE OF INDIAN EDUCATION?

8. WHAT IS THE PROPORTION OF TITLE IV GRANTS MADE TO URBAN BASED PROFESSIONAL AND TECHNICAL ASSISTANCE ORGANIZATIONS AS COMPARED TO THE FEDERALLY RECOGNIZED TRIBES FOR EACH YEAR SINCE 1972?

9. DOES NACIE REALIZE THAT ACCORDING TO THE UNITED STATES CENSUS AND THE BUREAU OF INDIAN AFFAIRS THAT ONLY 178,408 INDIANS LIVE IN URBAN SETTINGS WHILE 648,700 LIVE IN, NEAR OR ADJACENT TO RESERVATIONS? HOW DOES NACIE RECONCILE ITS VAST EXPENDITURES TO EASTERN URBAN AND RURAL COMMUNITIES THAT CANNOT VERIFY INDIAN POPULATIONS?

10. WHAT ARE NACIE'S PLANS TO ASSURE THAT RESERVATION-BASED TRIBES RECIEVE A MORE EQUITABLE PROPORTION OF TITLE IV GRANTS?

11. GIVEN THE MANDATE OF P.L. 92-318 TO CONSULT WITH THE TRIBES REGARDING RECOMMENDATIONS TO NACIE APPOINTMENTS, WHAT IS THE PROCESS BY WHICH NACIE CONSULTS WITH TRIBES PRIOR TO MAKING IT'S RECOMMENDATIONS FOR COUNCIL MEMBERS?

12. HOW DOES NACIE RECONCILE THE FACT THAT A FEW PERSONS HAVE HAD MULTIPLE APPOINTMENTS TO THE NACIE IN CONTRADICTION TO TRIBAL RECOMMENDATIONS?

13. HOW DOES NACIE PLAN TO BECOME MORE RESPONSIVE TO TRIBES WHEN MAKING RECOMMENDATIONS TO FUTURE NACIE MEMBERSHIP?

14. HOW DOES NACIE RECONCILE ITS 1978 RESOLUTION TO TRANSFER BIA EDUCATION TO THE PROPOSED DEPARTMENT OF EDUCATION WITH THE EXPRESSED OPPOSITION TO SUCH A TRANSFER BY THE VAST MAJORITY OF FEDERALLY RECOGNIZED TRIBES?

15. LAST MONTH IN HEARINGS BEFORE THE APPROPRIATIONS COMMITTEES OF CONGRESS NACIE TESTIFIED: "THE FACT THAT OUR COUNCIL...IN SERVING AS THE SOLE VEHICLE FOR THE REPRESENTATION OF THE EDUCATIONAL NEEDS OF ALL INDIAN CHILDREN' (EMPHASIS ADDED) AND; "NACIE PROVIDED DIRECT INPUT INTO LANGUAGE AND S. 991 AND WILL CONTINUE

TO PROVIDE REQUESTED INFORMATION TO RIBICOFF'S COMMITTEE ON S. 210," AND;
BE INCLUDED IN A NEW CABINET DEPARTMENT OF EDUCATION."
UNDER WHAT JUSTIFICATION CAN NACIE STAFF OR MEMBERS PRESUME TO SPEAK FOR THE ELECTED REPRESENTATIVES OF THE FEDERALLY RECOGNIZED TRIBES PARTICULARLY WHEN NACIE DOES NOT HAVE THE AUTHORITY BY LAW OR THE SANCTION OF THE FEDERALLY RECOGNIZED TRIBES TO INTRUDE INTO EDUCATION PROGRAMS OF THE BUREAU OF INDIAN AFFAIRS DEPARTMENT OF INTERIOR, OR OTHER FEDERAL PROGRAMS OTHER THAN THOSE UNDER THE DHEW?

16. WILL THE NACIE MAKE AVAILABLE THE PROPOSED RULES AND REGULATIONS ON TITLE IV OF P.L. 95-561 TO THE NTCA FOR COMMENT AND REVIEW PRIOR TO PUBLICATION IN THE FEDERAL REGISTER?

TO THIS DATE, NTCA HAS LEARNED OF ACTION ON ONLY ONE OF THE SIXTEEN QUESTIONS. (ON APRIL 20, 1979 A MAJORITY OF THE NACIE MEMBERS VOTED TO REVERSE ITS POSITION ON THE TRANSFER OF BIA EDUCATION TO THE THEN PROPOSED DEPARTMENT OF EDUCATION).

WE HAVE READ TESTIMONY PRESENTED BY MS. VIOLA PETERSON, CHAIRMAN OF NACIE ON JUNE 15, 1979 REGARDING THE IMPLEMENTATION OF TITLE XI OF P.L. 95-561 THAT PARTIALLY EXPLAINS THE LACK OF RESPONSE TO OUR QUESTIONS. HER TESTIMONY STRESSES THAT THERE IS A LACK OF COMMUNICATION AND INFORMATION EXCHANGE BETWEEN THE NACIE AND THE OFFICE OF INDIAN EDUCATION. MS. PETERSON, IN PAGE SIX OF HER JUNE 15 TESTIMONY ASKS, "TO WHOM IS OIE ACCOUNTABLE?"

THE NATIONAL TRIBAL CHAIRMEN'S ASSOCIATIONS VIEWS ON TITLE IV HAVE BEEN CLEARLY EXPRESSED BY CHAIRMAN ST. GERMAINE IN A LETTER TO A NACIE MEMBER AS FOLLOWS:

> "WE FIRMLY BELIEVE THAT EDUCATION SHOULD BE A MEANS OF SURVIVAL FOR THE AMERICAN INDIAN TRIBES. WE ARE TALKING ABOUT THE SOCIO-CULTURAL, PHYSICAL SPIRITUAL ECONOMIC AND POLITICAL NATURE OF SURVIVAL OF THE TRIBAL PEOPLE. THE PRESENT DIFFERENCES IN PHILOSOPHY AND DISAGREEMENT CENTER AROUND THE LEGISLATION'S DEFINITION OF AN INDIAN AND NACIE'S AND OIE'S APPARENT RELUCTANCE TO REMEDY THE PROBLEMS. YOU CAN BE ASSURED THAT THE NTCA WILL NOT RELENT IN IT'S CAUSE TO AWAKEN THE FEDERAL GOVERNMENT TO THE PROBLEMS GENERATED WITH BY-PASSING TRIBES IN FUNDING NON-RESERVATION INDIAN CLUBS AND ORGANIZATIONS."

TRIBES BELIEVED THAT THE ORIGINAL INTENT OF THE INDIAN EDUCATION ACT WAS TO IMPROVE THE QUALITY OF EDUCATION FOR THE INDIAN CHILD AND ADULT LIVING ON THIS NATION'S 267 RESERVATIONS AND 201 ALASKA NATIVE VILLAGES. AT THE TIME OF THE PASSAGE OF P.L. 92-318 IN 1972, THE MAJORITY OF TRIBES DID NOT FORESEE TODAY'S

RAMIFICATIONS OF THE LEGISLATION'S DEFINITION OF INDIAN IN THE "FIRST OR SECOND DEGREE."

WHILE THE "INTENT" TO SERVICE NON-FEDERALLY RECOGNIZED TRIBES BY EXPANDING THE DEFINITION WAS CLEAR, THIS IS NOT WHAT HAS OCCURED IN REALITY. MANY TRIBES WERE ASTONISHED WHEN THEY LEARNED FROM A GAO AUDIT THAT PERSONS CLAIMING MINISCULE PERCENTAGES INDIAN BLOOD WERE RECEIVING OIE MONIES AND OTHER BENEFITS MEANT FOR SEVERELY EDUCATIONALLY DEPRIVED RESERVATION CHILDREN.

IN 1978, NTCA AND NCAI MADE EFFORTS TO REMEDY THIS PROBLEM THROUGH THE THEN PENDING AMENDMENT TO THE LEGISLATION. WE WERE UNABLE TO EFFECT THIS CHANGE BECAUSE OIE WAS ADAMANT THAT ANY AMENDMENT TIGHTENING THE ELIGIBILITY DEFINITION WOULD NOT BE IN THE BEST INTERESTS OF THE PROGRAM.

P.L. 92-318 SERIOUSLY THREATENS THE STATUS OF THE FEDERALLY RECOGNIZED TRIBES. IT HAS COME TO THE POINT WHERE NEARLY ANYONE CAN CALL HIMSELF OR HERSELF AN INDIAN AND DEMAND INDIAN PREFERENCE AND SERVICES FROM THE OFFICE OF INDIAN EDUCATION. SINCE THE PASSAGE OF P.L. 92-318 IN 1972 A GROWING NUMBER OF FEDERAL AGENCIES ARE BECOMING MORE VAGUE AND CONFUSED ABOUT THE QUESTION OF WHO IS AN INDIAN AND WHO SHOULD BE THE RECIPIENTS OF SERVICES WORTH MILLIONS OF DOLLARS. OF AN ALREADY INADEQUATE DHEW/OIE APPROPRIATION, THE FEDERALLY-RECOGNIZED TRIBES HAVE A GROWING DISMAY AS WE SEE MORE AND MORE TRIBES LOSE AND COMPETE UNSUCCESSFULLY FOR OIE CONTRACTS AND GRANTS- ESPECIALLY WHEN WE KNOW THAT THESE TRIBES HAVE, UNQUESTIONABLY, THE GREATEST NEED AND LEGITIMATE ELIGIBILITY FOR THESE EDUCATIONAL SERVICES, IN ADDITION TO A LEGALLY-BINDING POLITICAL BASIS FOR RECEIPT OF THESE SERVICES.

IN 1978, THE NATIONAL CENTER FOR EDUCATION STATISTICS (NCES), PUBLISHED "FALL ENROLLMENTS IN HIGHER EDUCATION 1976." THE OFFICE OF EDUCATION-DHEW USED NCES AS A SOURCE WHEN IT PUBLISHED ENROLLMENT IN INSTITUTIONS OF HIGHER EDUCATION BY ETHNICITY, SEX, ATTENDANCE STATUS, AND LEVEL OF INSTITUTION. (ATTACHED) THIS DOCUMENT ENUMERATES 76,367 AMERICAN INDIANS AND ALASKA NATIVES THAT ARE ENROLLED IN ALL INSTITUTIONS OF HIGHER EDUCATION. LEROY FALLING, BIA HIGHER EDUCATION SPECIALIST, ESTIMATES THAT SOME

26,171 ARE PRESENTLY ATTENDING INSTITUTIONS OF HIGHER EDUCATION. EVEN ASSUMING THAT THE 1976 FIGURE OF 76,367 WOULD REMAIN THE SAME FOR 1979, THERE IS MORE THAN A FIFTY THOUSAND PERSON DISCREPANCY BETWEEN WHAT THE DEPARTMENT OF HEALTH, EDUCATION AND WELFARE AND THE DEPARTMENT OF THE INTERIOR ACKNOWLEDGE TO BE AMERICAN INDIANS AND ALASKAN NATIVES ATTENDING COLLEGE. SUCH A DISCREPANCY IS DANGEROUS TO THE FEDERALLY RECOGNIZED TRIBES' ASPIRATIONS TO POST SECONDARY EDUCATION BECAUSE THE REAL NUMBER OF INDIANS ATTENDING COLLEGE IS PROPORTIONALLY VERY LOW COMPARED TO ALL OTHER GROUPS OF PEOPLE IN THE UNITED STATES. WHEN WE ASK FOR SCHOLARSHIP MONIES THROUGH THE BUREAU OF INDIAN AFFAIRS, THE CONGRESS MAY BELIEVE THE DISTORTED NCES DATA THAT THERE ARE ACTUALLY 76,367 AMERICAN INDIANS AND ALASKAN NATIVES ATTENDING COLLEGE AND COULD BE UNWILLING TO PROVIDE NEW MONIES BECAUSE WE ARE SO WELL-EDUCATED. THE BUREAU OF INDIAN AFFAIRS FOUND A 27,000 PERSON DHEW-DOI DISCREPANCY IN 1967. THE US OFFICE OF EDUCATION'S ETHNIC ENROLLMENT DATA CLAIMED 29 000 AMERICAN INDIANS IN COLLEGE WHILE THE BUREAU OF INDIAN AFFAIRS WAS ACTUALLY FUNDING ONLY 2,000 AMERICAN INDIAN STUDENTS IN COLLEGE. THE BIA FOUND THAT THE OE-DHEW 29,000 FIGURE WAS ESTABLISHED WHEN PERSONS ANSWERED A QUESTIONAIRE AND IDENTIFIED THEMSELVES AS INDIAN BECAUSE THEY EITHER WERE BORN NATIVE TO AMERICA, WERE EAST INDIAN OR HAD AN ANCESTOR WHO WAS PART AMERICAN INDIAN.

THE DEPARTMENT OF DHEW INCLUDING ITS EDUCATION AND HEALTH PROGRAMS HAS NOT YET LEARNED HOW TO DISTINGUISH FEDERALLY RECOGNIZED AMERICAN INDIANS FROM ALL OTHERS CLAIMING TO BE INDIAN. THE DHEW HAS A TENDENCY TO THINK OF ALL NON-WHITE PERSONS AS MINORITIES. THE TERM FEDERAL RECOGNITION SHOULD, BUT APPEARS NOT TO HAVE MEANING TO DHEW. FORTUNATELY, THERE IS NOW A RULE TO DETERMINE PROCEDURES FOR ESTABLISHING THAT AN AMERICAN INDIAN GROUP EXISTS AS A FEDERALLY RECOGNIZED INDIAN TRIBE (25 CFR PART 54). FORMED IN CONSULTATION WITH BOTH FEDERALLY-RECOGNIZED AND NON-FEDERALLY RECOGNIZED TRIBES, THIS RULE SETS CRITERIA TO BE MET BY UNRECOGNIZED INDIAN GROUPS THAT WOULD GAIN THEM FEDERAL RECOGNITION AND ELIGIBILITY FOR SERVICES. IF DHEW (AND OIE)

AS A FEDERAL AGENCY WILL ALSO ACKNOWLEDGE, ALONG WITH THE DEPARTMENT OF INTERIOR, FEDERAL RECOGNITION TO THOSE TRIBES THAT HAVE MET THE CRITERIA FOR RECOGNITION, THEN THE INCONSISTENCIES THAT SO ALARM THE TRIBES WILL HAVE BEEN REMIDIED.

SUCH ACCEPTANCE REQUIRES THAT THE RULES FOR FEDERAL RECOGNITION OF AMERICAN INDIANS AND ALASKA NATIVES BE THE SAME IN DHEW AND OIE AS THEY ARE IN THE DEPARTMENT OF THE INTERIOR. IT IS INCUMBENT UPON DHEW TO MOVE TOWARD CONSISTENCY REGARDING THE DEFINITION OF INDIAN AND TO ACCEPT (25 CFR PART 54) CONSISTANCY IN POLICY WOULD REQUIRE THAT THE DEFINITION FOR ELIGIBILITY IN SECTION 453 OF THE INDIAN EDUCATION ACT BE AMENDED. SPECIFICALLY, THIS AMENDMENT SHOULD OCCUR IN SECTION 1148 OF PUBLIC LAW 95-561.

UNTIL SUCH A TIME AS THIS AMENDMENT AND CHANGE IN OIE POLICY SHALL OCCUR, THE NTCA MUST CONCLUDE THAT THE OIE IS NOT ADEQUATELY SERVING THE EDUCATIONALLY DEPRIVED, RESERVATION BASED INDIAN CHILD. WE, ON BEHALF OF THE FEDERALLY RECOGNIZED TRIBES SHALL ADVOCATE FOR REFORM OF THE INDIAN EDUCATION ACT. WE WILL CONTINUE TO ASK QUESTIONS AND WILL INSIST ON HARD DATA IN ANSWERS TO THE NTCA 16 QUESTIONS AND OTHER QUESTIONS THAT WE WILL ASK.

WE SINCERELY HOPE THAT THE COMMITTEE ON EDUCATION AND LABOR WILL GIVE DIRECTION TO THE OFFICE OF INDIAN EDUCATION AND DHEW SO THAT THERE WILL BE CONSISTENCY IN POLICY REGARDING THE ESSENTIAL QUESTION OF ELIGIBILITY. SUCH CONSISTENCY WOULD BE DEEPLY APPRECIATED BY THE TRIBES WHO ARE SEEKING TO ENSURE THE INTEGRITY OF ALL INDIAN EDUCATION PROGRAMS AND THE MAINTENANCE OF THE TRUST RESPONSIBILITY.

ENROLLMENT IN INSTITUTIONS OF HIGHER EDUCATION BY ETHNICITY, SEX, ATTENDANCE STATUS, AND LEVEL OF INSTITUTION

Level	Ethnicity	Ethnic Enrollment All IHE	Enrollment by Level[1]	Percent Enrollment by Level[1]	Full-Time: # and % by Level and All — Women	Full-Time: # and % by Level and All — Men	Part-Time: # and % by Level and All — Women	Part-Time: # and % by Level and All — Men	Full-Time # & % Level-All	Part-Time # & % Level-All
2-yr.	American Indian and Alaskan Native	76,367	41,157	53.8	8,908	9,516	11,9[illegible]1	10,802	1[illegible]524	22,733
					21.6	23.1	28.9	26.2	4[illegible].7	55.1
					11.6	12.4	15.6	14.1	24	29.7
Univ. & 4-yr.			35,210	46.0	11,467	13,329	5,429	4,965	24,796	10,394
					32.5	37.8	15.4	14.1	70.4	29.5
					15.0	17.4	7.1	6.5	32.5	13.6
2-yr.	Asian and Pacific Islander	201,168	80,360	39.9	14,251	19,657	22,745	23,707	33,908	46,456
					17.7	24.4	28.3	29.5	42.1	57.8
					7.0	9.0	11.3	11.7	16.8	23.0
Univ. & 4-yr.			120,808	60.0	37,919	47,684	16,202	19,003	85,603	35,205
					31.3	39.4	13.4	15.7	70.8	29.1
					18.8	23.7	8.0	9.7	42.5	17.5
2-yr.	Black Non-Hispanic	1,034,680	429,293	41.4	116,728	105,146	111,284	96,728	221,874	203,012
					27.0	24.4	25.9	22.5	51.6	48.4
					11.2	10.1	10.7	9.3	21.4	20.1
Univ. & 4-yr.			605,387	58.5	238,822	198,901	97,321	70,343	437,723	167,664
					39.4	32.8	16.0	11.6	72.3	27.6
					23.0	19.2	.9	.6	42.3	16.2
2-yr.	Hispanic Non-Black	479,797	241,635	50.3	56,128	63,316	57,755	64,436	119,444	122,191
					23.2	26.2	23.9	26.6	49.4	50.5
					11.6	13.1	12.0	13.4	24.8	25.4
Univ. & 4-yr.			238,162	49.6	80,509	88,794	32,970	35,889	169,303	68,851
					33.8	37.2	13.8	15.0	71.0	28.9
					16.7	18.5	6.8	7.4	35.2	14.3

[1] University and four-year level includes enrollment beyond baccalaureate.

Source: "Fall Enrollments in Higher Education 1976," NCES, 1978.

STATEMENT OF PATRICIA LOCKE, ON BEHALF OF THE EDUCATION COMMITTEE, NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION, ACCOMPANIED BY GEORGIANNA TIGER, STAFF MEMBER

Mr. KILDEE. Ms. Locke, we are happy to have you. You have testified a number of times before the subcommittee and we are happy to have you back. And we welcome Ms. Nelson before the subcommittee. You may summarize if you wish. Your full written testimony will be put in the record.

Ms. LOCKE. Thank you. We are happy to be here, Mr. Kildee, Mr. Hinson, Mr. Erdahl and staff, to speak to the issue of Public Law 92-318 and some of [illegible] issues in that law.

Before we begin [illegible] testimony we would like to let you know how much we appreciate your deep understanding and your eloquent support of the tribes' position on Public Law 95-561, something that we greatly appreciate.

Mr. KILDEE. We in turn appreciate the input that was provided before we wrote that law.

Ms. LOCKE. Thank you.

Georgianna Tiger, who is on the staff of the National Tribal Chairmen's Association Education Committee, is with me. We would like to begin by saying that the Tribal Chairmen's Association, which is an organization composed of the elected heads of tribal government, the chiefs, the chairmen, in one case a town king, the village heads, have an education component that consults regularly with the elected heads of the federally recognized tribes and their tribal councils.

We take great care to try to represent the majority of these tribes. We explain issues to them. We have a regular newspaper, and we are in constant telephone contact with the various tribes throughout the United States, including Alaska.

We want to make a comment about how we perceive the culture of tribal people. It is the same way as culture is anywhere in the United States, anywhere in the world in fact.

The elements of any culture, be they Samoans or people from Asia, are that groups always have a social structure, a system of governance, language, a belief system, history that is oral and written, arts, music, dance, poetry, material culture, and a philosophy and value system.

These are elements that any culture in the world has. Anthropologists and other kinds of scientists agree to those primary elements.

Among the tribes in the United States, over 400 tribes, including the Alaska Native villages in most of these native elements exist. Some of them do not have certain of the elements but they primarily have all of them.

We have to say that title IV in the past few years has done a great deal to help with restoration of language and the teaching, the resurgence of Indian culture, and we are grateful for those positive strides in focusing on Indian education.

But the elected heads of tribal government are becoming disturbed about the direction of the Office of Education and the diminishing benefits that are accruing to the federally recognized tribes.

Because we have been watching the progress and the direction of the Office of Education recently, the Education Committee and the National Tribal Chairmen's Association for reasons of protocol presented the National Advisory Council with 16 questions that address our concern.

Our intent was that these questions would be reviewed by the National Advisory Council on Indian Education, that they would discuss these issues, that they would direct certain of their conclusions then to the administration of the Office of Indian Education, and then subsequently to the Assistant Secretary for Education and the Commissioner of Education.

If you will look on page 2 of your testimony and on page 3, you will see those questions that we addressed to NACIE. These questions were directed to members of NACIE on April 9, 1979.

Of these questions, since that date, we have had response to only one and that is question No. 14 that refers to NACIE's position last year on then Senate bill 991. The day following our presentation of these questions NACIE did reverse its position on the transfer of BIA education.

Our point is that the rest of these questions have not been answered. We think the majority of them are very critical and substantial areas that need to be answered, and we do not know why they are not answered.

We think that the Congress also would be interested in some of these particular questions.

We note with interest the testimony of Viola Peterson who is Chairman of NACIE on June 15 and then we understand why we have had not detailed responses to some of these questions. She stated in testimony on 95-561 that there was a lack of communication and information exchange between the NACIE and the Office of Indian Education, and she asked the question: To whom is OIE accountable?

So, obviously, NACIE must share some of the same concerns that the National Tribal Chairmen's Association shares.

We have had a lot of personal communication from individual NACIE members regarding our questions and Rick St. Germaine, in a letter to a NACIE member, responded describing the position of the National Tribal Chairmen's Association to OIE and NACIE.

He says and I quote:

> We firmly believe that education should be a means of survival for the American Indian tribes. We are talking about the socio-cultural, physical, spiritual, economic and political nature of survival of the tribal people.
>
> The present differences in philosophy and disagreement center around the legislation's definition of an Indian and NACIE's and OIE's apparent reluctance to remedy the problems. You can be assured that the NTCA will not relent in its cause to awaken the Federal Government to the problems generated with bypassing tribes in funding nonreservation Indian clubs and organizations.

Tribes believed that the original intent of the Indian Education Act was to improve the quality of education for the Indian child and adult living on this Nation's 267 reservations and 201 Alaska Native villages.

The 1970 census showed that less than 2 percent of world Indians had achieved 4 or more years of college, both male and female, so our education levels are very low.

We thought that title IV would remedy some of these issues.

We also don't believe that the definition of the Indian as it was first stated in the law, which was first or second degree, meant what it said. Most of the tribes did not understand that and so they were surprised when the GAO audit showed that something like 1/264 degree blood were being served.

This would cut back on the funds meant for educationally deprived reservation children.

In 1978, NTCA and NCAI made efforts to remedy this problem through the then pending amendment to the legislation. We were unable to effect this change because OIE was adamant that any amendment tightening the eligibility definition would not be in the best interests of the program.

Public Law 92-318 seriously threatens the status of the federally recognized tribes. It has come to the point where nearly anyone can call himself or herself an Indian and demand Indian preference and services from the Office of Indian Education.

Since the passage of Public Law 92-318 in 1972 a growing number of Federal agencies are becoming more vague and confused about the question of who is an Indian and who should be the recipients of services worth millions of dollars.

If you look on the last page at the chart you will see that in a publication by the Office of Education and substantiated by the National Center for Educational Statistics, the ethnic enrollment of all groups in the country, minority and Indian groups, is delineated.

The National Center for Educational Statistics believes that in 1976 there were 76,367 American Indians in college.

We called the Bureau of Indian Affairs to find out how many federally recognized Indian students were in college and it came to something over 23,000 Indians in college. That is Indians in all institutions of higher education and Indians in tribally controlled colleges and at the BIA schools.

So there is a discrepancy of some 50,000 persons between those that HEW thinks are Indians in college and that the BIA thinks are Indians in college. This discrepancy disturbs us very much. This is only at the postsecondary level so we have to assume that other persons are claiming Indian blood and it must be the same at all other levels of education, elementary and secondary education.

The Bureau of Indian Affairs found a 27,000-person DHEW-DOI discrepancy in 1967. The U.S. Office of Education's ethnic enrollment data claimed 29,000 American Indians in college while the Bureau of Indian Affairs was actually funding only 2,000 American Indian students in college.

The BIA found that the OE-DHEW 29,000 figure was established when persons answered a questionnaire and identified themselves as Indian because they either were born native to America, were East Indian or had an ancestor who was part American Indian.

We can only conclude that a great number of people do want to identify as Indians.

There seems to be a semantic problem about that phrase, "federally recognized." If all the Federal agencies, Department of Energy and HEW and Department of Labor are Federal agencies, why do they not have Federal recognition as it is defined?

The Policy Review Commission pointed out these inconsistencies and discrepancies in definition of who is an Indian and who should be served by the Federal Government. That is why the rule 25 CFR, part 54, was established, so that Indian groups could follow definite criteria in establishing Federal recognition.

There are various levels similar to the cultural levels but other historical information that groups can follow and submit for Federal recognition.

Since this process is in place we believe that tribes who have indeed been terminated, who have bona fide substantiation for recognition should receive that recognition. But we have that process in place and we believe that it will help all agencies of the Federal Government to have specific ways of recognizing who is an Indian and to whom to give services.

It is incumbent upon DHEW to move toward consistency regarding the definition of Indian and to accept (25 CFR Part 54) consistency in policy would require that the definition for eligibility in section 453 of the Indian Education Act be amended. Specifically, this amendment should occur in section 1148 of Public Law 95-561.

Until such a time as this amendment and change in OIE policy shall occur, the NTCA must conclude that the OIE is not adequately serving the educationally deprived, reservation-based Indian child.

We, on behalf of the federally recognized tribes shall advocate for reform of the Indian Education Act. We will continue to ask questions and will insist on hard data in answers to the NTCA's 16 questions and other questions that we will ask.

We sincerely hope that the Committee on Education and Labor will give direction to the Office of Indian Education and DHEW so that there will be consistency in policy regarding the essential question of eligibility. Such consistency would be deeply appreciated by the tribes who are seeking to insure the integrity of all Indian education programs and the maintenance of the trust responsibility.

Ms. LOCKE. Thank you, Mr. Kildee. If I or Georgianna Tiger can answer any questions we will be very pleased to do so.

Mr. KILDEE. Ms. Locke, we appreciate your testimony this morning. If you could excuse me, this morning I have some constituents from my District in the room. I would turn the Chair over to Mr. Hinson and I will have some questions on my return.

Mr. HINSON [presiding]. Ms. Locke, we appreciate very much that very comprehensive and eloquent statement.

I would just want to ask Mr. Erdahl if he has any statements or comments he would like to make or questions and then we will proceed with Ms. Nelson.

Mr. ERDAHL. Thank you, Mr. Chairman.

I also appreciate your fine testimony. I am not trying to make a point of contention between our panel here and the one that just preceded. I didn't get to hear all of that testimony but I will read it.

How better can we define who is an Indian person for the sake of the law? I take it from what you said that you might have some question with the definition that maybe we should consider as far as the Lumbee group is concerned. Would you care to comment?

Again, I am not trying to provoke controversy but I think we should try to come to the nub of the problem.

Ms. **Tiger**. You are certainly not provoking a controversy. This has been a very controversial issue with tribes for a long time.

Over the past years both the nonfederally recognized tribes and the federally recognized tribes have made efforts to work together toward arriving at a set of established criteria through which nonfederally recognized tribes could apply to the Department of the Interior to receive Federal recognition.

Our understanding is those criteria are in effect past criteria in terms of socio-cultural criteria. Basically it comes down to an Indian is a member of a tribe and seeking recognition through that status as a tribe, not as an Indian individual.

Our organization endorses this type of approach to determining who is an Indian. This is certainly the criteria that BIA has at this point for recognition, not the final answer to who is or who is not an Indian but there is no doubt the definition as it is in 92-318 is entirely too wide.

The end result, which was not foreseen in 1972, that we are living with today, is that the law is now serving the nonfederally recognized tribes exclusively. It opens the door for anyone who wishes to self-identify as an Indian.

Ms. **Tiger**. I would like to augment a point Pat made before. For Indians in institutions of higher education it is our understanding that the intent of this law was for education services to return to the reservation, for the benefits of education to go back and serve their tribes.

Allowing persons who self-identify to receive these benefits—there are no indications that these people are going back and in turn serving their tribes and helping to improve the socioeconomic status of their tribes.

Mr. **Erdahl**. If I may just follow up a couple of observations. I find in my 6½ months here in Washington we are learners.

If you proceed with your definition that a person is identified as an Indian only through an existing recognized tribe that has some shortcomings. Maybe, on the other hand, if you say a person who wants to identify as an Indian, as we have heard from the representative from the Lumbee group, the definition seemed to be one who considered himself to be an Indian.

Also, I think the added part was to be considered an Indian by the community from whence he came. You seem to think that is too broad also but it seems to me that there has to be a definition of one identified with a particular tribe might have some shortcomings; or the requirement that one had to go back to teach on a reservation, I think that is a limitation or restriction that maybe doesn't come up on others.

I grew up on a farm in Minnesota. I am not sure that should have been the only thing open to me. I am a strong proponent of education. I think it is something that has been lacking for Indians from my background in Minnesota.

Yet, to restrict this definition to people who are members of a recognized tribe and have an implied requirement that a person educated as an Indian has to go back to the Red Lake Reservation, I don't think so. I am not trying to be provocative.

Ms. **Locke.** Mr. Erdahl, one of the values of all tribes is the sense of responsibility to the community in contrast to individual attainment. Individual attainment is good but only in the context that it would help the tribe to survive. So I am sure you are serving your community and many other communities in this country. That you can serve your community in a broader context by working in a city that isn't really the point, but it is that it is not that I would become an interior decorator, that wouldn't be the right kind of service to the tribe.

Mr. **Erdahl.** I don't see anything wrong with being an interior decorator if a person wants to do that.

Ms. **Locke.** That is the value I am trying to describe. It is an obligation, a social pressure, if you will, to serve your own individual tribe or other tribes or other people.

But our point is that the process is in place, the rules are set for the criteria for recognition by the Federal Government. Over 40 tribes have applied and are following those points in the criteria to have Federal recognition.

We think this is good, the way that it should happen, so there will be consistency. Otherwise, we truly believe as is evidenced by the growing numbers of Indians—a 50,000 person discrepancy—the flood gates will be incredible—10 million people can claim ancestry.

Mr. **Erdahl.** I will have some questions later but I see our chairman has returned so I will yield to him.

Thank you for your good response.

Mr. **Kildee.** Thank you, Mr. Erdahl.

Ms. **Locke.** I know this is a constant question of definition, particularly in programs set up for Indians. Among other factors in determining Indianness, would you admit that if the Europeans living around a group consider a certain group to be Indian, would that be one factor that could be considered?

Most of the tribes in the United States, federally recognized tribes, believe that they have as one of their inherent powers of government——

Mr. **Kildee.** Under sovereignty?

Ms. **Locke.** Yes, they can determine who their members are. That is one of the inherent powers. For instance, the Pueblo tribe can decide the blood quantum, if it be one-half or more. It can decide if a woman who is a member of the tribe marries a nontribal member that the issue of that marriage can be enrolled. The *Martinez* decision spoke to that issue; 37 tribes gave amicus briefs regarding this *Martinez* consideration before the Supreme Court. We respect the Pueblos' right to say that a woman marrying someone outside the tribe, their child cannot be a member. That is the function of the tribal government.

Mr. **Kildee.** I understand something about the sovereignties, Suzy Ehrlich educated me well on that. One problem that comes up, though, in the question of being a recognized or unrecognized tribe is that the very title recognition is external to the tribe, because that recognition has been granted by a sovereign power outside the tribe.

In other words, that recognition is not an internal factor, it is an external factor.

While I understand and recognize the question of sovereignty when you distinguish between a recognized and unrecognized tribe, you are referring to an external sovereign recognizing the entity, in a sense.

So, we put in place, actually, an external judgment when we say recognized tribe, do we not?

Ms. **Locke**. Yes, sir, that is correct. Under the U.S. Constitution, the Congress does deal with the tribes, has that special ability to deal with the tribes and to impose or take away certain privileges, and we are simply silent nations.

Mr. **Kildee**. Would you feel less sovereign, though, this is very theoretical, if for example the U.S. Government would say we no longer recognize you? Would that intrinsically change your feeling of tribal identity?

Ms. **Locke**. We would still have our languages, our religion, our religious ceremonies, we would still have our social structures, our system of government and our arts.

Mr. **Kildee**. Your sovereignty does not flow from the United States. It is a question of whether the United States recognizes your sovereignty for purposes of U.S. law, not for your internal sovereignty.

Ms. **Locke**. Recognition is conferred, you are entirely correct.

Mr. **Kildee**. Sovereignty is not conferred, recognition is conferred.

Ms. **Locke**. Yes, we are inherently sovereign.

Ms. **Tiger**. I was going to add what you set up as theoretical did indeed happen to Indian tribes, so it is not theoretical in reality in the history of what has happened to tribes. While they were victims of assimilation policies, et cetera, tribes kept their languages and culture and the deplorable educational situation remained unchanged from 1928 to 1969. Thus the enactment of the 1972 Indian Education Act for those reasons.

So, in terms of the external recognition, I believe the Supreme Court calls Indian tribes Indian dependent nations. It would not affect probably a tribe's culture to have that revoked as has been proven by our history. It would indeed affect the tribe's abilities to sustain itself economically if that were revoked.

Mr. **Kildee**. If termination of a tribe took place 20 years ago or 200 years ago, would the legal effect be the same? The practical effects would be different, would they not?

In other words, if 20 years ago the U.S. Government would say we are going to withdraw recognition of a group as a tribe, particularly in light of the fact that Indian awareness is a growing thing in this country, it probably would not have a real internal effect. But suppose it happened 200 years ago, in fact, not by statute?

Ms. **Tiger**. To both your questions, the Winomi people, while not a tribe, still remained a tribe. At the time of the Dawes Act, Indian tribes still remained tribes. The members of those tribes did not become farmers and first-class citizens.

Mr. **Kildee**. We are really seeking to acquire knowledge here.

Ms. **Tiger**. In terms of the federally recognized tribes, I think we have seen that history shows regardless of what the Government of the United States does legislatively to Indian tribes, Indian people as members of those tribes still will remain Indian people and

Indian tribes. I think it is safe to say we have learned that much from the history of what has been done to Indian tribes.

Ms. LOCKE. Sir, I am 51 years old and lived during a time when there was a strong Federal policy of assimilation.

While it is true that some of our tribal members did assimilate and assumed the values and to all appearances gave up that Indian culture, the majority of them did retain those cultural determinants I spoke about, the religion, all the ceremonies. I just attended some a couple of weeks ago where my son participated and it is incredible how these have persisted, how the language has persisted. We have seven ceremonies among the Sioux people as complex as let us say the Hindu religion. When there were these crystallization efforts on all the tribes, some of the religions went underground, but they persisted. The persistence of the cultural aspects of the over 400 American Indian tribes is incredible. It is truly incredible.

Ms. TIGER. I wanted to step on one of Mr. Lovesee's lines that I hear often, that is in terms of living up to the spirit of the law as well as the letter of the law. The definition of Indian precludes it from being lived up to, the spirit of the law, even though the letter of the law is being carried out.

Mr. KILDEE. Miss Nelson, you may testify now.

STATEMENT OF PATRICIA R. NELSON, DIRECTOR, CAREER DEVELOPMENT CENTER, SOUTHERN CALIFORNIA TRIBAL CHAIRMEN'S ASSOCIATION

Ms. NELSON. Here is still another angle, another viewpoint.

My name is Patricia Rose Nelson. I am an enrolled Cupeno/Juiseno Indian from the Pala Indian Reservation in southern California. I am a parent and an administrator. I have been involved in programs funded through title IV of the Indian Education Act since 1973. From that perspective I offer my thoughts on the concept, process, and progress of title IV. And for the opportunity to do so, I give you my thanks.

The opportunities and challenges of title IV were enthusiastically met by members of our tribal communities. It was regarded as a gift—the first chance in over a decade to take our proper place, and become responsible for the educational growth of our children. Idealistically, we formulated plans, labored over designs, and constructed programs which we believed would help our children acquire the confidence and skill necessary for academic success. The entire community became active in the planning; elders were consulted on matters of heritage; adults recruited for positions; proposed activities discussed with parents; and children told that at last help was on the way.

But along with opportunity comes obligation—obligations to implement and operate our programs in compliance with Federal rules and regulations, Federal regulations and an Office of Indian Education, which in no way prepared us, or forewarned us, about the realities of title IV.

So, what has been the reality of title IV? Reality has been the development of a proposal application which reflects community ideals, and proposes the creation of the perfect situation. Reality is the approval of such an application, and the burden of trying to operate a program that proposed unrealistic, and therefore unattainable, goals. It is then having to agonize, without guidance, assistance, or direction from any source, on how to perform the impossible; always fearful that without a glowing final program evaluation by an independent consultant, the program may be defunded the next year.

From there it continues. It is having to cope with the painfully slow process of trying to be a source of strength for your children, while at the same time being confused, frustrated, and misguided by the strange silence of your assigned program monitor. It is trying to find the resources, or develop the skills, to provide an inexperienced staff with the training they need to properly instruct the children. Reality is having your children accomplish something absolutely fantastic, and not having anyone outside of the immediate community to share it with.

And, it gets worse. Reality has been closing out the program year with an evaluation report which shows that you have run a very successful program—and then being defunded. It is also having to witness parent board members, who because of their lack of experience and/or limited education, have been manipulated by school personnel to approve the use of title IV-A funds for materials, equipment, and activities which ineffectively address the academic problems of Indian students.

So, from my perspective, the reality of title IV has been the opportunity for us to experience failure—and from that failure, acquire the skills, knowledge, and abilities to establish for ourselves a set of standards, and demand for quality, that heretofore has not been required.

During my period of involvement in Indian education, as an administrator, I have been required to function as a teacher, business manager—this list is only partial—curriculum developer, counselor, cook, proposal writer, accountant, personnel officer, tutor, public relations specialist, board and staff trainer, and once or twice, busdriver. My only guiding light, through it all, was a community, as inexperienced as I, reminding me of the hopes we held for our children. So, I allow only the children to be my judge; only through them do I evaluate effectiveness; and only because of what they tell me, in words and actions, do I know that progress has indeed been made.

For those of us that work in Indian education, reality has changed; and so have we. From times of uncertainty in the early days of title IV, we have changed to become experienced administrators, knowledgeable educators, fully capable of standing up for our convictions on how our children should, and will, be educated. Our background also enables us to offer suggestions on how the Office of Indian Education could, and should, become more responsible as the major funding source of programs designed to benefit the American Indian child.

To continue our efforts, effectively and efficiently, we need two things: First, we need the Office of Indian Education staff to be more accessible, informative, and supportive of the types of programs we offer. We need the security of knowing that this Office is sufficiently staffed, and has the resources, contacts, expertise, and information to provide us with guidance and direction. Our parent boards and staff need training; and our systems of management need the check and balance that can only be provided by OIE. We need consistency in methods of evaluation and reporting, and the assurance that program accomplishments will be seriously considered in future funding.

Second, we need the assurance that as tribal people, our concept of education, which may differ substantially from that of the American public, will be acknowledged and respected. In our early efforts, many of us attempted to pattern our programs in consideration of the curriculum, materials, and goals of the public school system. And in doing so, we learned through hard experience that what our children need cannot be provided through, or in a manner similar to, that of the public school system.

What our children really need is for us to quit trying to be something we are not—teachers or professional educators—they need for us to be allowed to drop the pretense of using academic terminology, and trying to structure program activities based on what we think is going on in school—all for the sake of procuring a contract. As American Indian people we represent a set of standards, values, language, and culture which is unique, and our privilege alone. This must be understood—and we must be given the freedom to develop our programs according to our specifications, without fear of having our applications turned down in favor of ones which have been prepared by public school personnel who are skilled and trained in the ways of American education.

Our children need for us to quit trying to put a label on culture; and trying to develop programs which schedule activities and events designed to support culture. When, in fact, all our children need is for us to have a chance to live it, be it, share it.

In closing, I must say that in reviewing the rules and regulations published in the June 29 Federal Register, I am pleased to find that title IV will keep up with our pace. Many of the revisions have been needed for a long time; while others will serve only to retard our progress. Guidelines and regulations designed to assure quality administration of title IV programs, and proper government by parent boards and communities I believe in as strongly as I believe that the charge, and responsibility of educating and caring for our children belongs in the hands of Indian people—and not in the hands of public school personnel.

As the Office of Indian Education sets out to implement new regulations, I ask that they remember, constructive criticism is always of far greater value than passive acceptance. Additionally, I ask that the Office of Indian Education learn to expect the same degree of excellence from us, as we expect of ourselves. No favors are given in the approval of a poorly prepared and unrealistic proposal; no gains can be made from allowing a project to run an ineffective or inefficient program. Lack of guidance, support, and infrequent monitoring only serves to condone carelessness.

As I continue my work in Indian education, I feel comfortable and anxious knowing that the services I provide will improve in direct relation to the demand of OIE for my work performance to be of the highest standard possible.

Thank you.

Mr. KILDEE. Thank you very much.

How many tribes does your organization represent? Are any of them in the group you represent referred to as nonfederally recognized?

Ms. **Nelson**. No.

Mr. **Kildee**. How many children would be represented by the various tribes?

Ms. **Nelson**. It is hard to tell. We are talking about—from southern California tribal chairmen, I strictly deal with reservation-based programs. There is a big line between the number of Indian students already in San Diego County as opposed to the reservation. I think we have maybe in elementary grades, 700 elementary students.

Mr. **Kildee**. What is your feeling toward the definition of Indian in title IV?

Ms. **Nelson**. I am glad you asked; I will tell you my thoughts on this subject, and I have been thinking about it, of course, like everybody else, for a long time, and they change. So, what I tell you today, as my experience has changed, so will my ideas.

You know in our community as in reservation-based communities, all our children can be certified, but our communities will let whomever; they do not care. They would never think of turning away a child from our project because they did not meet the qualifications.

It is just as likely that children who become involved in our programs on the reservations are there because they happen to live in the vicinity. They could be white; they can be anything; it would not make any difference. The communities just want us to provide something for the children. I do not care who the children are, I do not want to see their credentials, I just want to give them something they need.

Because our children are from reservations, they go to school in towns closest to our reservations. When they get to those schools and the issue of title IV comes up and you have to fill out the forms and say who is and who is not, there is no way to get any of the white children in that school to say I am a Cherokee or whatever. They do not want to be associated with us. They can see who we are. What that means is when schools submit in their forms, they can tell you we have 60 students, we have 70 students, or exactly the number. But schools in—I had a fellow tell me just the other day, which began to change my thoughts on it, that the public school system in the city, San Jose, a case in point, boasted to me they can get 500 children in their schools to fill out those forms. So that means, for our 60 children, because we are honest, we get $6,000. But this big school district can claim 500 with no consideration as to whether they are really Indian children or not, and get $80,000. I say that does not sound real fair. He said, we all know out of that 500, only 200 may be Indian, so we just serve the 200, but we get the funds for 500. So that really began to change my thoughts on the whole idea of how it should be determined.

It is a sticky issue, and it is something that as Indian people, you know, I like to think that some of the traditions or some of the culture that we have that has shown us to be a group of people that care for each other and get along, I like to think that part of our culture has remained, but Indian culture has changed and so have we. The truth of the matter is it is the idea and the issue of having to define or come up with regulations as to blood quantum that is causing war out here in Indian education, and it is affecting programs like mine and affecting children I have to serve. I do not know how it can be determined, but I hope it is, because I sure see a lot of children suffering from the consequences of Indian people having to be defined as Indian people by a degree of blood in the very first place. Now we are suffering from those initial early mistakes.

Mr. **Kildee**. You can really understand the dilemma, the problem in which the Congress finds itself, because Congress is made up of essentially non-Indians, and it is very hard for us to get a definition that is both realistic and practical without causing some controversy among Indians. It is a very difficult thing for us to do. We try, and we will probably offend people. It is very difficult for us and I think you can recognize that difficulty.

Ms. **Nelson**. It started from having, as I said, from being required to enroll as an Indian in the very, very first place.

Certainly we are suffering seriously from that in more ways than education. We have, in California, our groups are so small and our communities—I have a mother, a father, and I have six different reservations that all my ancestors were from. Out of those six, the rules require you can only claim one. So you start cutting out your blood degrees. I have a daughter that is half and she cannot be accepted by any one of them. Simply because of the details of Bureau requirements of being able to claim only one, of being able to pledge your allegiance to the Cupeno, forgetting the Luiseno, or whatever. I look back now and my child, while she is certainly accepted by my reservation, could never be enrolled there. She cannot go anyplace. I realize that is happening to Indian children all over and I do not know what you are going to do about it.

Mr. **Kildee**. Would it help any, rather than for the U.S. Government, the U.S. Congress, or the Interior Department to define "Indian," to define "tribe" and then let the tribe determine who is Indian?

Ms. **Nelson**. That is the way in southern California, that is pretty much the way we do it. I met with a group of people in February of this year representing the States of Oklahoma, Alaska, California, and discussed the issue of blood. It was pretty much the consensus of the group that it should be, again, the privilege of the tribe. They want to accept one-sixteenth, or one-sixty-fourth, it was the tribe's privilege. Educational opportunity should be given to children based on the standards of the tribe. That was fine, you know, we lived that way pretty much in California as it is now. But the problems with that are what about those not recognized, or what about those children who cannot be enrolled anywhere. You know, there are a whole set of problems that alone would not protect all of the children.

Mr. **Kildee**. Would the other two witnesses care to comment on that?

Ms. **Locke**. I would like to add a little bit of information.

In the early 1900's, our parents and grandparents were sent to schools, Carlisle and Haskell, primarily. There, the young Indians met persons from other tribes and got married. And then their children met persons from other tribes, let us say at Haskell, and married. So we have almost the same problems that we had with land allotment. We have persons that can be one-eighth of eight different tribes and be a fullblood. So those problems of intermarriage or hybrid vigor results from all those tribes which are as a direct result of the educational system.

I have three grandchildren. Two of them are Chippewa, Sioux, and Athabascan. Another one who is Chippewa, Pima, but that one grandchild could only be a member of one tribe. Her other three-fourths are not counted. So it seems as though it would help if you, if tribes could accept the total blood quantum from all of the Indian tribal strains. But it seems again that is a matter for the tribe to decide.

Mr. KILDEE. That is all the questions I have.

Mr. Hinson.

Mr. HINSON. Thank you, Mr. Chairman.

I have found this to be extremely informative. It illustrates better than anything I could say the virtual lack of program management in the act of identifying Indianness in this program. It shows the kind of abuses that are possible in this kind of vacuum.

In the June 1978 issue of the Ripon Forum the results of the Federal Government's system of self-identification of race or ethnic status of all 2.6 million of its employees revealed that in 1965 two out of every three State Department employees claimed they were American Indians * * * and some departments reported an Aleut work force greater than the entire Aleut population in Alaska.

In a recently released issue of the newsletter Virginia Lumbee Nation Times, Chief Thunderbird Webber, who claims to be the Grand Council Head Chief of the United Lumbee Nation, offers membership to the United Lumbee Nation of North Carolina and America, Inc., for a sum of $5 and information including the name, address, and family members of the applicant along with the tribal affiliation, if any.

Look at the Lumbees, 8,000 part A entitlements, that is approximate. Of those 8,000, only 4 would have been dropped from the program because they claim entitlement because of a second-degree relationship.

That means that the other 7,996 recipients claim first-degree relationship and no one can document these claims otherwise because there are no written enrollments for the tribe.

That problem is further illustrated by the fact that apparently one can become a Lumbee by mail. There is a publication called the Lumbee Nation Times which claims an application for tribal membership and $5 will get me an application and if I am willing to falsify some of this information then it is entirely possible Jon Hinson could be a Lumbee, and he isn't.

I am not saying that any individual or any group is deliberately misleading local agencies, local school agencies, State governments, or anyone else. I am merely pointing out what I believe is a major weakness in this program that needs to be clarified.

I would certainly agree with you that tribal sovereignty ought to be the control here and that the cumulative amount of American

Indian or quantum blood amount ought to be a major factor in making such determinations.

I thank you very much for your coming. It has been an eye-opening experience for me.

Ms. **Locke**. Thank you very much. May we just say, too, that we would like to express our appreciation also to the Congressmen for outstanding performance on H.R. 2444, the Department of Education measure. We are deeply grateful.

Mr. **Kildee**. Again I would like to point out that it proves that Indian power does exist in this country. Your numbers can be magnified by the moral rectitude of your position in asking for justice, and I really think that you brought to the attention of the Congress that there was a question of what the Indians wanted to be considered.

I think that prevailed. Thank you very much.

The Chair will exercise its prerogative at this point. Since the Lumbees were mentioned, Commissioner Jones, would you like to respond?

Mr. **Jones**. I certainly would, because that individual that he cites we have tried to get indictments by our attorney against him. He has operated in North Carolina, he has operated in Virginia. He has absolutely nothing to do with the Lumbee people of North Carolina. He is a fraud to the *n*th degree and there is no way under the Sun you can become a Lumbee by what he made reference to.

I am sorry that the Congressman, and in all humility to him, would use as indictment against the people such evidence as he presented here before this body.

Had I not been here you would have been led to believe that you could have become what I am by such an innuendo as he presented. I am greatly disappointed.

Mr. **Kildee**. Any response?

Mr. **Hinson**. Mr. Chairman, I would make a point that I am indicting no one, no individual and no group. I am merely saying that the State of Virginia in which this newspaper is apparently located, has no way of knowing one way or the other whether a person who is so designated is entitled to title IV assistance. Therein lies the problem.

The problem is not with the Lumbees or any other group. The problem is really administration of the program.

Mr. **Kildee**. Our next panel will consist of Mr. Clifford Saunders, executive director of the Boston Indian Council, Inc.; Mr. Michael O'Berry, chairperson, title IV parent committee, Native Americans for Unity Organization of Michigan, accompanied by Mrs. Helen Efthim of the Pontiac Schools; and Ms. Jan Longboat, project director for Waterford Public School, Waterford, Mich.

I welcome everyone, particularly the people from my home State. They are not from my district but the postal address of at least a couple of them is well steeped in Indian history. Detroit may have been in Indian hands if Pontiac had had a few more supplies.

STATEMENTS OF CLIFFORD SAUNDERS, EXECUTIVE DIRECTOR, BOSTON INDIAN COUNCIL, INC., BOSTON, MASS.; MICHAEL O'BERRY, CHAIRPERSON, TITLE IV PARENT COMMITTEE, PRESIDENT, NATIVE AMERICANS FOR UNITY ORGANIZATION OF MICHIGAN, PONTIAC, MICH., ACCOMPANIED BY HELEN EFTHIM, EVALUATION RESEARCH ASSISTANT, PONTIAC SCHOOLS, AND JAN LONGBOAT, PROJECT DIRECTOR FOR WATERFORD PUBLIC SCHOOL, WATERFORD, MICH.

STATEMENT OF CLIFFORD SAUNDERS, EXECUTIVE DIRECTOR, BOSTON INDIAN COUNCIL, INC., BOSTON, MASS.

Mr. **Saunders**. My name is Cliff Saunders. I am executive director of the Boston Indian Council. I wish to express my appreciation for the invitation the committee extended to me. I will read portions of my testimony.

What I would like to do is explain what exactly title IV has meant to the Indian people of Boston and two or three of the recommendations that we have concerning the regulations.

The Boston Indian Council is a 9-year-old multiservice organization providing social, educational, and job-related services to the 4,000 Indian people residing in Boston.

As in all urban Indian areas, Boston's Indian population is a discrete, separate community evidencing its own complex needs and characteristics. Nearly 80 percent of the population are from rural communities; most are bilingual, and most at some time work as migrant farmworkers.

Close ties are kept with home reservations, and travel back and forth is frequent. Major tribal affiliatons include: Passamaquoddy, Penobscot, Micmac, and Maliseet.

Educationally, Indian people have not been prepared for the change from rural to city life: poverty, poor housing, unemployment, inadequate health care, et cetera, are all realities for most.

I might add, the unemployment rate of Indians is 55 percent, and the median education level is the eighth grade in Boston.

Since 1977, the Boston Indian Council, Inc. has secured funding for programs parts B and C of title IV, The Indian Education Act, and serves as a subcontractor for the part A program.

Programs specifically include: a preschool, compensatory afterschool and teen programs—part B; and an adult education program—part C. Community impact to date is impressive.

A Comptroller General of the United States recent publication entitled, "Report to the Congress: Federal Management Weaknesses Cry Out for Alternatives to Delivery Programs and Services to Indians to Improve Their Quality of Life,"—October 31, 1978—pointed out the problem of committees which exercise oversight oftentimes not having access to documentation.

Generally speaking, title IV grantees accumulate such data, and document it in the form of performance reports to the Office of Indian Education. Because of the serious understaffing of the Office of Indian Education, this information is not always synthesized and disseminated.

The nature of title IV programing being to enlarge areas of choice and self-determination among Indian people while at the same time giving attention to cultural diversity, makes it a powerful and vital facilitator for Indian community development.

Data relevant to title IV programs impacting community development in Boston include the following:

One: Participants in the council's adult education program, approximately 100, can avail themselves of numerous supportive services, including: day care, job placement, alcoholism counseling, transportation to and from class, higher education counseling, as well as referrals to community services and elderly affairs programs.

Two: Ninety percent of all the GED graduates—30—have pursued higher education in either university or vocational settings.

Three: Three teaching paraprofessionals in the adult education program have moved from that status toward professional status via a career ladder which includes significant inservice training components, increased job responsibilities, and relevant college coursework. One paraprofessional has obtained a title IV, part C, Indian fellowshlip.

Four: A long-term objective of the adult education program—to enable participants to get off welfare rolls—has been realized by 95 percent of those successfully completing the GED.

Five: A concomitant effect of the upward mobility experienced by adult education participants has been the decrease in demands asked of the council's community services unit.

Six:. Because of the wholistic approach to education; that is providing educational experiences for both children and parents alike in the community, parents are becoming more actively involved in their children's education as measured by: increased visits to the children's school, regular attendance at parent committee meetings, demands made on school personnel concerning student records, assistance with the children's homework, increased awareness of the technicalities of the Boston public school system; for example, busing, school transfer, geocoding, et cetera.

Seven: Adolescents experiencing difficulties adjusting to an urban school environment have been provided individual counseling; 60 percent of same have remained in school.

Eight: Overall dropout rate has decreased significantly.

Nine: Compensatory tutoring has improved the mathematical and reading scores by at least one grade level of most of the children tested.

Ten: Increased personal security felt by students in the Boston public school system through personal observations by teachers, parents, and other school personnel has been noted.

Eleven: Decrease in the fear and isolation felt by students by the heightening of self-esteem and self-awareness via relevant cultural activities.

Twelve: Most importantly, individual success stories of program participants act as motivators and role models for other community members. Examples of strong role models include: a former GED student with low-level occupational skills, obtained his high school equivalency diploma, secured technical training, and obtained a $20,000 a year job. This individual has also been elected to the council's board of directors, and serves on the board's education committee. Another GED graduate is a full-time student in the College of Engineering at Northeastern University.

This family approach to Indian educational issues has been advocated since the Meriam Report of 1928, eventually was implemented with the enactment of the title IV Indian Education Act of 1972, and hopefully will continue into the 1980's.

The aforementioned community impact results characterize Boston's Indian community, and are representative of a nationwide trend. Community development notwithstanding, title IV programing is a necessity for urban Indian centers not receiving Bureau of Indian Affairs and Johnson-O'Malley moneys. Continued efforts to extract educational services from existing agencies have been slow and frustrating.

Failure of agencies to provide services for Indian people, has been to date fairly well documented. Title III, the Adult Education Act, provide services to Indian people in just five States. Indeed, Mary Berry, Assistant Secretary for Education, and others have graphically shown the potential for encouraging educational disparities among segments of the U.S. populations via federally funded programs, and the failure of these same programs to serve the target population for whom they were intended.

At a local level, the Boston Indian Council; Inc. has been endeavoring since 1974 to acquire a Head Start program. Likewise, attempts to extract services from, and provide training for Boston public school personnel have not always been successful.

I might add there are no Indian kids enrolled in the Head Start program in the inner city.

Hence, there is a dependence on title IV programing, and a hope that, if implemented correctly, it will create even better educational opportunities for Indian children and adults, and a greater impact for Indian self-determination.

On the whole, the proposed rules and regulations respect this concept of Indian self-determination. However, some problems do exist in this, and other areas as the proposed rules and regulations now stand. Specific documentation follows.

The terms "planning, pilot and demonstration projects," viewed as mechanisms to devise replicable models for Indian education programs, are mentioned throughout the proposed rules and regulations.

However, there is no concise definition of these terms. Likewise, design requirements and program strategies are nonexistent. The category of basic service oriented programs is lacking. Clarification of these activities is critical for Indian communities educational planning.

Title IV, part A: One, with respect to local educational agencies—entitlement grants, section 186.12 eligibility.

Clearly one cannot ignore the present educational system, and under part A efforts should be made to impact this system. Present eligibility requirements for students give way to a system servicing increasingly high numbers of children with low Indian blood quantum; children with cultural characteristics of the general educational population rather than those characteristics unique to the Indian child.

Our recommendation: A definition of "Indian Student" which clearly takes into account the culturally diverse profile of the Indian student.

Under title IV, part B, perhaps the most controversial aspect of the proposed Part B regulations is the provision for establishment

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of regional information centers. Indeed, regulations for establishing same do not appear in the specific regulations themselves, but rather in the preceding supplementary information.

It is thought that the planning for these centers emerged from the Office of Indian Education staff's concerns that there was insufficient staff to adequately provide services to grantees, for example, two adult education staff members last year monitored 55 title IV, part C programs. Nevertheless, there is little information available concerning the purpose, location, staffing, scope of activities, et cetera, of these proposed centers.

Our recommendations: One, specify the exact nature of the regional information centers, with attention to purpose, location, staffing, implementation of Indian preference, et cetera. Solicit response in the Federal Register where a greater number of Indian tribes, organizations and institutions will read it and respond.

Two, at the same time allow for the grantee to choose technical assistance providers at the local level.

Three, provide for the inclusion of an Indian education data bank, a clearinghouse compiling names of resource people, their areas of expertise, cultural resource materials, and so forth, with special attention to Indian elderly and the wealth of Indian tradition they can convey.

The section on educational personnel development allows for the funding of a majority of non-Indian organizations. Again, proven areas of expertise are questioned, as are the ability to work effectively with Indian grantees and the assurance the majority of students will be Indian. Inclusion of non-Indians into an Indian educational staff training program will not guarantee the employment of same in a title IV program. Given Indian preference in hiring practices, it is very unlikely.

Our recommendation: Indian grantees and the National Advisory Council on Indian Education be solicited for input in the selection of educational institutions and students in these programs.

Title IV, part C: One, the most outstanding omission in this section is that of legitimate cultural activities in Indian adult education programs. Oftentimes it is these activities which provide the initial "draw" of the student into these programs.

Furthermore, it is these same activities which ensure continued and regular participation. Ironically, the proposed rules and regulations for title III, the Adult Education Act, allow for these activities.

To date, these activities have contributed to the uniqueness of Indian adult education programs. Usual cost allocations for providing these activities is minimal—the Boston Indian Council, Inc., expended about $12,000 for these activities in fiscal year 1979.

Our recommendation: to include those cultural activities which complements the program in the rules and regulations for title IV, part C.

Two, with respect to educational services, provision for basic services is a positive inclusion under part C if programs are to impact a large portion of the target population. Equally well received is the mention of career education projects. To date, low levels of employment, negative occupational stereotyping, and lack of educationally related programming has perpetuated the cycles of unemployment and underemployment among Indian people.

Our recommendation: Continued attention to basic service delivery, and more specific mention of acceptable career education activities.

Three, of equal concern is the omission of staff development activities under title IV, part C. These teacher training activities have been lumped under sections 186b.51 and 186b.71 of the part B regulations. Frequently a title IV, part C, adult education program is funded in an area where no title IV, part B, funded programs exist. The deletion of staff development activities from part C of the proposed rules and regulations seriously limits the scope of the program and service delivery.

The majority of title IV, part C, grantees employ paraprofessionals in their programs, providing them with inservice training, increased job responsibilities, college coursework related to their job, and other staff development activities which move the paraprofessional to a professional status. This is consistent with the idea of community development and Indian self-determination.

Paraprofessionals are chosen for a variety of reasons: they serve as important role models in the community, they are most familiar with the programs since, in many cases, they are graduates of the program, they provide for as little as possible staff turnover as they are generally very conscientious, and willing to improve job skills while on the job and; lastly, they are most knowledgeable about their own Indian community, language and culture.

Recommendation: Employ a section of the regulations, specifically under part C, to provide staff development activities for Indian adult educators. Allowable activities would include: workshops, conference attendance, related college coursework, et cetera.

Mr. KILDEE. Thank you very much, Mr. Saunders. We will proceed with the panel and then we will ask questions.

[Information submitted by Mr. Saunders follows:]

Addenda

POSITION AND BACKGROUND INFORMATION PAPER - INDIAN ADULT EDUCATION

I Background on Need for Indian Adult Education.

There are two situations which produce the need and the students for Indian adult education.

Even though historically the federal government has had a legal commitment to provide education for Indians, elementary and secondary education programs have simply not been available to many Indian people. Consider that even today there is no high school on the Hopi Reservation, and only those Hopi youth who get one of the few available spaces in the Navajo border town seventy miles away, or those who attend a boarding school over the mountains in Phoenix are able to complete high school.

This is only one instance in which schools have been or still are unavailable or inaccessible. There are thousands of Indian adults who have been unable to attend school, but want and need those basic skills necessary for everyday living and problem solving.

The second situation is the high failure rate of those Indian youth who do attend public or BIA schools. It is not at all unusual to see drop out rates of 60% to 70% or more among Indian students. Why? The why of the situation is both complex and simple. Enculturation is so unconsciously inherent in the public school education process that academic success is tied very strongly to the ability and willingness of Indian students to "become white" in terms of the prevalent value systems and thought processes.

While we can hardly expect that public schools would or should reverse the situation and place the large majority of non-Indian students in the same position by using a system which produces a culturally amenable atmosphere for Indian students, there is no such thing as a culturally neutral classroom. It is an impossibility.

Thus, we have a significant portion of the total Indian population (probably over half) who have been denied the opportunity for a basic education either through lack of available facilities or unwillingness to accept forced acculturation which is a form of cultural genocide.

Therein is our need for Indian adult education programs.

II Why Special Adult Indian Programs?

Why can't Indian adults use programs which are already available through the states? Again, there are both simple and complex answers. To begin with, states are not now successful at reaching and serving any of their severely disadvantaged populations, be they Indian, Chicago, black or Anglo.

Mary Berry, Assistant Secretary of Health Education and Welfare, addressed part of the reason for this failure in her testimony before the Education Sub-Committee of the Senate Committee on Human Resources when she said: "Evaluations of the ABE programs indicate that few of the target populations participate and that even where they do participate, relatively few are helped by the program...The target population needs the services that are being provided but the services are not being made available in the form to which that population has access." (Berry, 1977)

Costs for Indian adult education are high, but you cannot educate Indian adults who have no available means of transportation without providing transportation. Single parents, of whom there are many, cannot participate unless babysitting is available. These and other factors make Indian program costs seem high, but which are truly the expensive programs: State programs who expend funds year after year but never reach or hold a significant number of the people who most need the services or Indian programs through which Indian adults come, stay and graduate?

Additionally, the same problem of cultural compatibility exists with regard to state adult programs as was expounded for public schools. Indian adults are faced with a myriad of complex legal and social issues about which they must make decisions; water, mineral rights, development of natural resources and a constant barrage of legislation and court decisions which ultimately and profoundly affect their lives and futures. State programs will not and cannot teach basic skills in a problem solving context for these and other issues.

Although states have been highly resistant to providing money for Indian adult education programs (most states do not fund any), many Indian adult educators do not want state monies. Along with state monies, come state regulations which force programs to mold their instructional modes, staffing, etc. to the same state model which fails with Indian adults.

The only answer lies in entitlement funding at the federal level for Indian adult programs. Demonstration money which has been available through the Office of Indian Education (HEW) and earlier through the Office of Higher and Adult Education (HEW) has clearly shown that Indian people are highly successful at running programs for Indian adults which produce success.

The National Indian Adult Education Association is available to provide testimony or additional documentation on the need for an appropriation for programs and the success of those programs which have from time to time had some funding. Unfortunately, adult education is not and has not been a priority in Indian education. Children's programs have received all of the attention. Resultingly, agencies which do nominally deal with Indian adult education like BIA and OIE often do not have the supportive data and information available to document the critical needs in the field. Thus, we urge Congressmen to contact the National Indian Adult Education Association when information or testimony is desired. We have the intimate day to day contact with local programs and Indian people which more clearly reflects the true needs.

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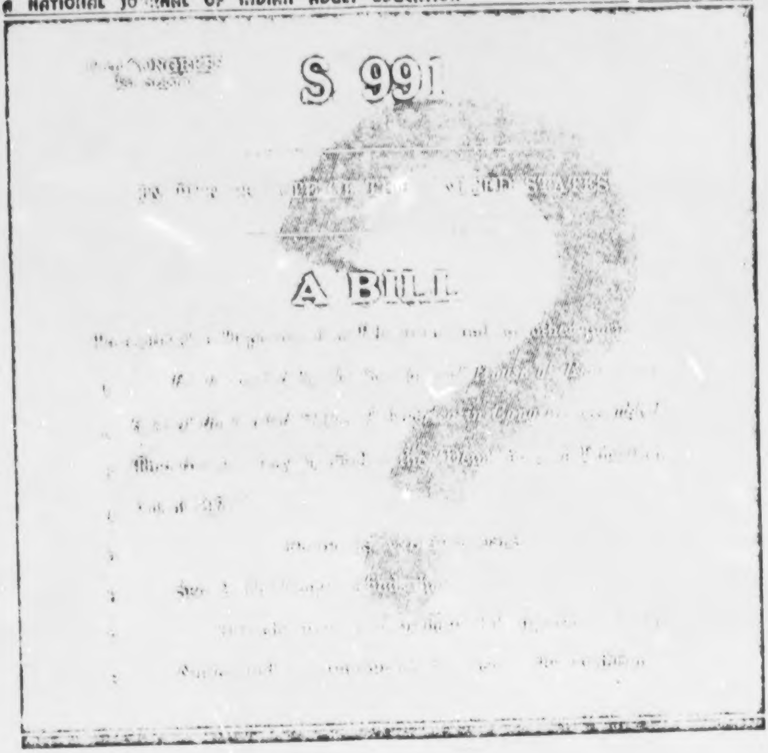

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A BILL

JAKE DENNY, (center) works with Ray Morrison (L) and Brenda Simon (R) at the Boston Indian Council's Adult Education Program.

Profile: A Boston Success Story

by Karen Rice

Jake Denny is a Micmac from the Eskasoni Reservation in the Maritimes.

Until the age of fifteen, Jake attended various Indian boarding schools and, as Jake recalled, "They always pushed the idea that my future lay with my muscles, rather than my brains." After leaving boarding school, Jake became a traveling man - traveling back and forth from Maine to the Maritimes in search of jobs in factory work, truck loading, gravedigging, and blueberry and potato picking. None of these jobs lasted long, however.

In 1964, Jake came to Boston for the first time. "I had heard that there were lots of jobs in Boston and figured I'd make a fortune." His dream was shortlived however, and he soon left Boston for his reservation. Jake later decided to return.

In the spring of 1977, Jake heard about the Boston Indian Council's Adult Education Program through a friend who was a student in the program. "At that point - early last spring - I was tired of using my muscles and decided to try my brains."

Jake has been a regular student in the program for a year now and feels that many new and positive things have happened to him in that time. Recently, he obtained his driver's license with the help of an Adult Education staff member and plans to buy a car in the near future. He's also enjoying performing volunter work with the editor of the BIC's *Circle* newspaper, and finds journalism to be a very interesting field.

In January, Jake was selected to participate in a 10-month electronics technician training program for Native Americans sponsored by the Digital Corporation. The course, which is housed in the Boston Indian Council, is now training Jake during the day in electronics theory, logic, and computer circuits. At night, Jake continues to study in the Adult Education classes in order to complete his G.E.D. Upon graduation from the electronics program in the Fall, Jake will have a wide range of career options with the Digital Corporation. Jake is eagerly awaiting the start of his new career in electronics. He is also thinking about taking some college courses in the Fall.

Jake is indeed a busy person around the concil. Nevertheless, he is always willing to assist fellow students in the Adult Education classes in any way possible and to encourage Indian community members to enter classes. In many ways Jake is looked upon as a success to members of the community - a role he certainly has earned.

KAREN RICE is director of the Adult Education Program at the Boston Indian Council.

Profile: Ft. Belknap's proud of Amy Blackbird

by Loren Stifform

July 19, was fruitful a day in the life of one of our Fort Belknap Indian Community elders. This was the day that Amy Blackbird, a full blood Gros Ventre, was notified that she successfully completed her G.E.D. tests. She received her General Educational Development certificate from the Office of Public Instruction in Helena, Montana.

This is unique because Amy is 64 years old! She was born on July 14, 1914 to George Blackbird and Angela Deafy. She started school at Fort Belknap Boarding School and went as far as the fourth grade. Amy then attended Flandreau Indian School, Flandreau, South Dakota. She completed the eighth grade at Flandreau studying different vocations. In 1932 Amy enrolled in Harlem High School and was influenced by the wishes of her parents to continue her education. She was a victim of the ignorance and cultural differences of the dominant society and never finished high school.

Forty-six years later, through constant encouragement from her granddaughter Nona Kerr (who was the first G.E.D. graduate of the Adult Education Project last year), and five children, Amy enrolled in the Fort Belknap Education Department's G.E.D. Program. Under skillful instruction from teachers Sister Laura and Sister Kathleen, she started classes at night. During the bad winter Amy attended classes held at the Detox Center, where she is currently employed.

"Surprised" was her first reaction upon receiving her G.E.D. certificate. She was taking the classes on Nona's urging and wasn't really sure of her self after she had been out of school for so long. As her interest in Math and English grew, Amy knew that she could succeed in attaining her G.E.D.

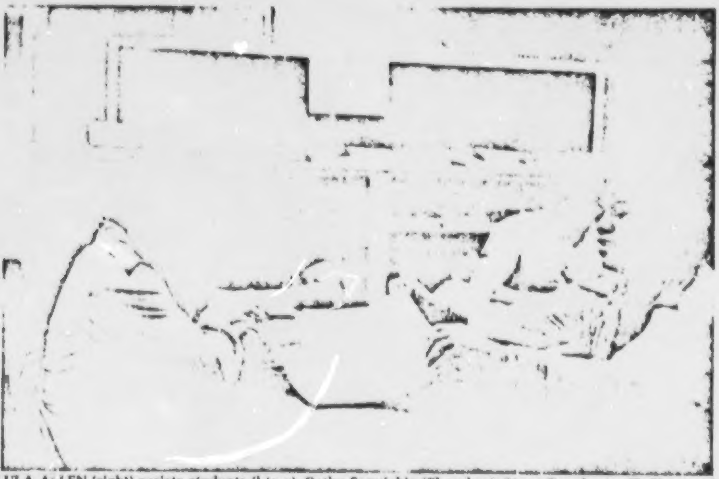
Amy is a classic example of how people young and old alike can continue their education by overcoming barriers that would otherwise prevent them from doing so.

In leaving Amy said, "The youth of today should overcome their particular problems and stay in school to further their education." She added "Indian Counselors, Indian teachers would help solve some of the problems, but it is up to the students themselves to put forth the effort."

The Fort Belknap Education Department congratulates Amy on a job well done. Through her example, we are encouraging all Indian adults on the Fort Belknap reservation to enroll in our ABE/GED classes.

Loren Stifform is project coordinator of the adult education project of the Ft. Belknap Adult Education Project.

The Gros Ventre and Assiniboine tribes live on the Fort Belknap Indian Reservation situated in north central Montana.



LULA ALLEN (right) assists students (l to r), Cathy Sequichie (Cherokee), Steve Daugherty, (E. Shawnee), and John Fuentes.

STUDENT PROFILE:

Lula Allen

by Mary Jo Cole

Lula Allen is a full-blood Cherokee from Tahlequah, Oklahoma. In 1971, Lula's husband became very ill with arthritis and was told by doctors he could no longer work. Lula, who then still had five of her eight boys at home, decided she needed to get an education so she could get a job to help support her family. She began attending night classes two nights a week at the C.C. Victory Adult Education Center at Tahlequah. Then about a year later she took a driver's education class sponsored by the center and received her driver's license at age 44.

Later, Lula was hired by a manpower program as a teacher's aide for the Adult Education Center. In June, 1976, she was hired full time by the Cherokee Nation as a secretary-teacher's aide. After Lula began working she continued to study for her GED. She passed her GED about six months after starting work.

Lula has been a definite asset to the Adult Education program of the Cherokee Nation. She works well with the students both young and old.

She is married to a full blood Navajo, Woodrow Allen, from Shiprock, New Mexico. They have been married 32 years and have eight boys. Their oldest son has completed a Master's degree in Counseling at Northeastern Oklahoma State University in Tahlequah. Another son has a bachelor's degree from

Student Profile

Northeastern; a third, will finish this fall; a fourth is in his junior year at college, a fifth a freshman in college, and two more are still in public school.

Woody is a minister and pastors a small Indian church near Tahlequah. Lula says being a minister's wife has helped her in her job because she has been associated with so many different people. Much of her work includes listening to the many problems the students have and sometimes offering helpful suggestions.

Lula has thought about going to college but as yet has not made up her mind.

MARY JO COLE is the Adult Education Director of the Cherokee Indian Nation program in Tahlequah, Oklahoma.

STUDENT PROFILE:

Chicago's "Oldie but Goodie"

Ellen Prue is a teacher's aide at the Native American Committee's (NAC) Adult Education program in Chicago. But Ellen is a great deal more than that.

She is the oldest graduate of the NAC Adult Education program. A Sioux, from Rosebud, South Dakota, Ellen says she is "an oldie but a goodie" at age 56.

Ellen wanted to go back to school ever since she was 36 or 37 years old, but she was involved in a car wreck and her injuries kept her laid up for nearly 10 years. During that time she had quite a few children, and as she says, "they didn't have programs then like they have now."

One day, her kids brought her down to NAC's Adult Education Center. Ellen decided if she went to school, the children would too. They all signed up.

It wasn't long before Ellen had her G.E.D. After that, she began working as a teacher's aide . . . but that wasn't all. Ellen is enrolled in college now, in fact, she's just finished her first trimester.

What are her plans after college? Well, Ellen is hoping to work with the elderly, but she's getting a start already. She is working with a 74-year-old woman now. She moved her in right next door.

"I do her shopping and make sure she has enough to eat and different things like that," says Ellen. "I've seen so much in the hospital, so many old people suffering, I know there have to be Indian people going through the same thing. So if I ever get the chance, I want to work with elderly people."

Ellen says she is very proud of her students. We imagine they, too, are proud of Chicago's "oldie but goodie."

BOSTON PUBLIC SCHOOLS

FINAL REPORT

PROJECT AT THE BOSTON INDIAN COUNCIL

TITLE IV, PART A

PREPARED BY
JOE COLORADO
WITH ASSISTANCE FROM
ALLAN WONG
MARCUS H. STANNARD
TREAD, INC.
SUBMITTED TO
BOSTON INDIAN COUNCIL, INC.
AND
OFFICE OF MANAGEMENT INFORMATION SERVICES

JULY 31, 1978

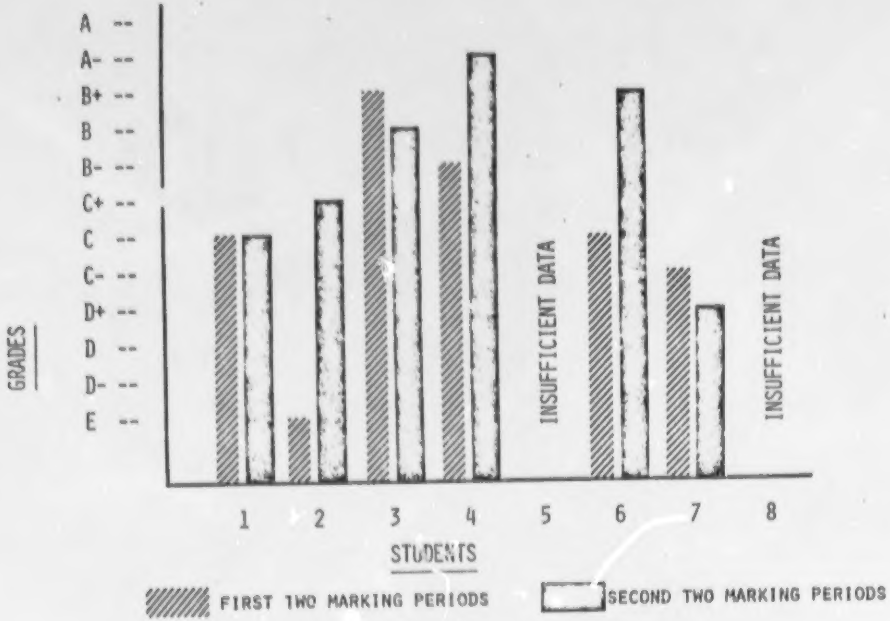
CHART COMPARING 8 SIXTH GRADE STUDENTS' AVERAGE GRADES IN THE FIRST TWO MARKING PERIODS WITH GRADES ATTAINED IN THE SECOND TWO MARKING PERIODS OF THE 1977-1978 SCHOOL YEAR FOR READING, MATHEMATICS, GENERAL SCIENCE AND SOCIAL STUDIES SUBJECTS

STUDENTS	READING GRADES			MATH GRADES			GENERAL SCIENCE GRADES			SOCIAL STUDIES GRADES		
	1&2	3&4	Δ*	1&2	3&4	Δ*	1&2	3&4	Δ*	1&2	3&4	Δ*
1	C	C	0	C-	C	+	C+	D+	-	D-	D+	+
2	E	C+	+	I/D			I/D			D	B	+
3	B+	B	-	C+	B-	+	B	A-	+	D+	C+	+
4	B-	A-	+	B	B	0	C-	D+	-	C	C	0
5	I/D			C+	B	+	I/D			B	B-	-
6	C	B+	+	B-	C+	-	A-	A	+	B	B-	-
7	C-	D+	-	E	E	0	C+	D+	-	E	E	0
8	I/D			I/D			I/D			I/D		

FOOTNOTE - *KEY - (+) IMPROVEMENT IN GRADE AVERAGE FROM MARKING TERMS 3&4 COMPARED TO 1&2
(-) DECREASE " " " " " "
(0) NO CHANGE " " " " " "

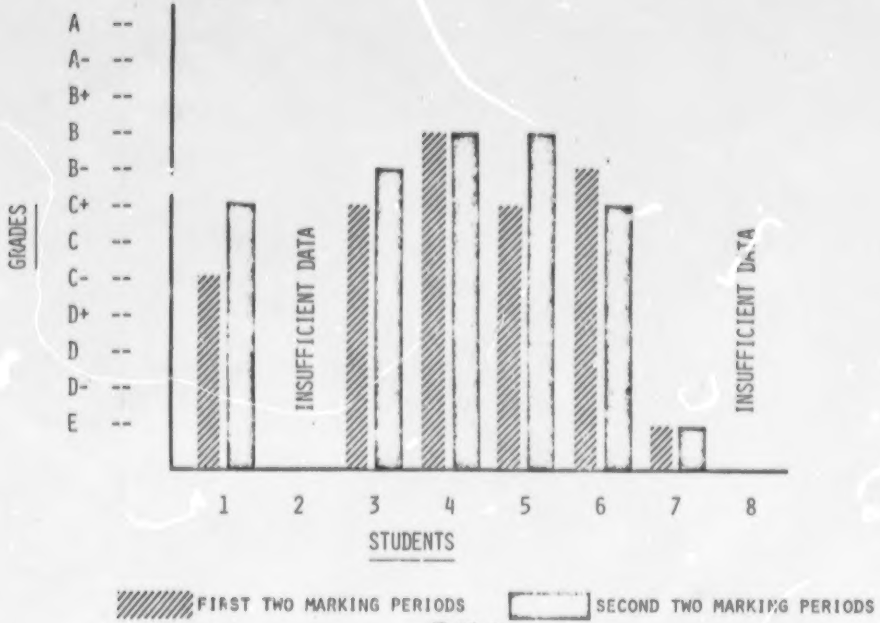
I/D - INSUFFICIENT DATA

GRAPH COMPARING SIXTH GRADE STUDENTS' AVERAGE READING GRADES IN THE FIRST TWO MARKING PERIODS WITH AVERAGE READING GRADES IN THE SECOND TWO MARKING PERIODS OF THE 1977-1978 SCHOOL YEAR

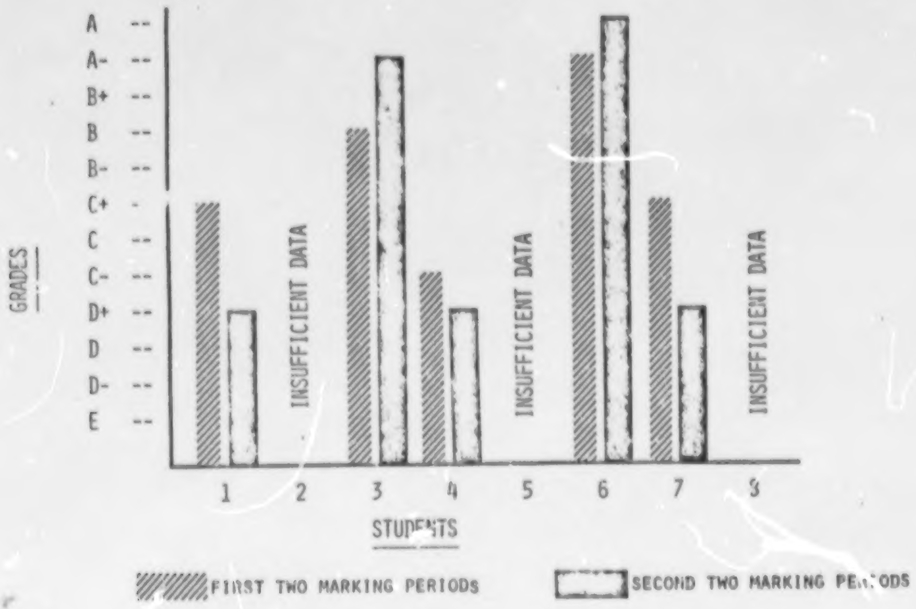


AVAILABLE

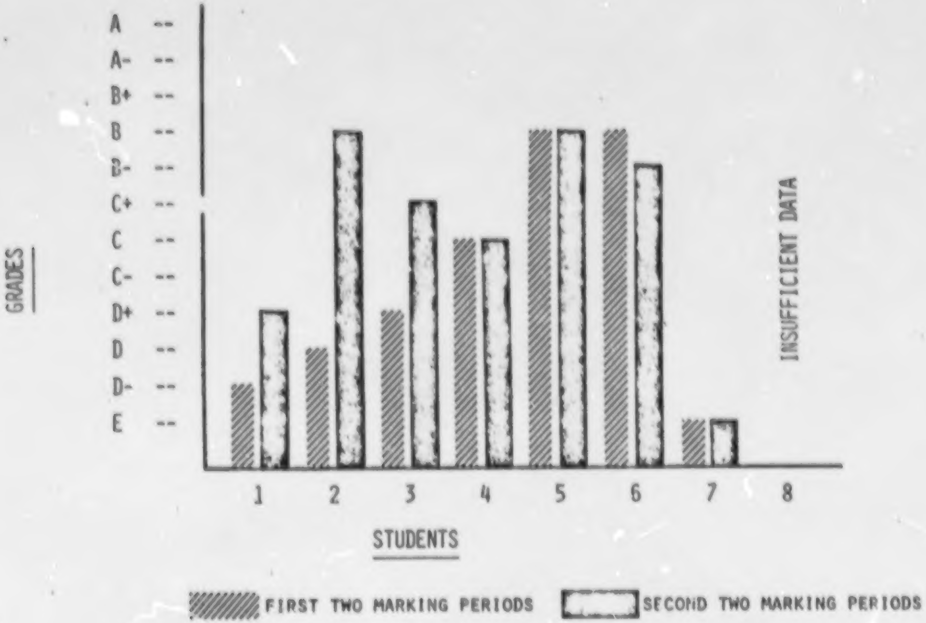
GRAPH COMPARING SIXTH GRADE STUDENT'S AVERAGE MATH GRADES IN THE FIRST TWO MARKING PERIODS WITH AVERAGE MATH GRADES IN THE SECOND MARKING PERIODS OF THE 1977-1978 SCHOOL YEAR



GRAPH COMPARING 5 SIXTH GRADE STUDENTS' AVERAGE GENERAL SCIENCE GRADES IN THE FIRST TWO MARKING PERIODS WITH AVERAGE GENERAL SCIENCE GRADES IN THE SECOND MARKING PERIODS OF THE 1977-1978 SCHOOL



GRAPH COMPARING 7 SIXTH GRADE STUDENTS' AVERAGE SOCIAL STUDIES GRADE IN THE FIRST TWO MARKING PERIODS WITH AVERAGE SOCIAL STUDIES GRADES IN THE SECOND MARKING PERIOD OF THE 1977-1978 SCHOOL YEAR



Boston Herald American
Sunday, October 15, 1978

Time for new rhyme, so old ethnic poem is on the way out

By JOHN WILPERS
Staff Writer

Remember the old grade school arithmetic jingle: "One Little, Two Little, Three Little Indians."?

Well, forget it.

And Little Black Sambo?

Forget that one, too.

Condescending or outdated references, both blatant and subtle, to ethnic groups are slowly but surely being purged from the Boston school system.

Two weeks ago, more than two dozen teachers, parents, administrators and community representatives began a year-long effort to update and revise a decade-old social studies curriculum on Boston's ethnic groups.

The group will also produce new packets of materials for students and teachers as well as oversee the establishment of ethnic resource centers in each District Seven school.

The project, organized by District Seven and Northeastern University through a $31,577 grant from the state's 636 (desegregation) funds, will be limited initially to the schools in District Seven (Charlestown, South End and Roxbury). The curriculum and materials will be available, however, to schools in the other eight districts.

The first workshop, October 4, focused on the Native American Indian. There are more than 500 Native Americans in the Boston schools, 4-5000 in the Boston area and 6-7000 in the Bay state which is more than live in the state of Wyoming.

The remaining workshops will address the Chinese, Afro-American, Jewish, Irish, Italian, Puerto Rican and East Indian-Haitian-Portuguese history and cultures.

If the Native American workshop was any indication of what's to come, the others will be exciting, eye-opening, myth-shattering and perhaps slightly controversial.

It started with the group being told they were there to develop the cultural awareness of others in District Seven.

But in a matter of minutes, after the meeting had been turned over to a contingent from the Boston Indian Council, it was clear that the group itself was about to have their own cultural awareness developed.

"You're not going to like what I'm going to say," said Barbara Gentry, a Wampanoag Indian from Gay Head. "We've seen what's been written about us and we don't like it."

Then, step by step and with a great deal of emotion and frustration, the Indians went through the problems they had with the existing curriculum.

The very first sentence of the American Indian section starts out: "Thousands of years before Columbus discovered America . . ."

"Right then and there it's wrong," said Alan Knockwood, a Mic Mac Indian from Nova Scotia, Canada. "Columbus did not discover America. How can you discover a place when somebody is already there?"

"He didn't even know where he was," added Gentry. "He thought he was in India so we were named Indians."

That very same first sentence continues to state that all Indians came across the Bering Straits from what is now Russia. "That rubs against our grain," continued Knockwood. "Just as you believe you came from Europe, Africa or wherever, we believe we came from here."

In the section on the Indian in contemporary America, the curriculum says there are 550,000 Indians in the 50 states. Wrong, said Gentry, there are 1.5 million.

In the next paragraph, the curriculum declares: "Their (the Indians') skillful hands, quick wit and high intelligence have helped them to be expert mechanics and tradesmen . . . Their excellent sense of balance and sure-footedness have helped them in building bridges and skyscrapers."

"My God!" shouted Gentry. "What are we talking about here, mountain goats or people?"

"Nowhere in the curriculum is there any mention of Indian people in professional jobs," continued Gentry. "We have many doctors, lawyers, teachers, administrators — the list goes on and on and on."

Knockwood, Gentry and the other Indians cited several other examples of errors from a curriculum which Knockwood said, "gives teachers a very poor outlook on Indian children . . . and a stereotype which is completely wrong."

Then, with his voice breaking, Knockwood told a very quiet audience: "We are trying to hold on to what we have left. At one time there were over 300 tribes in Massachusetts; only two remain. Our religion, customs and culture have been stripped away. Few speak our own language. Our most important remaining resource — our children — are being fed misinformation in the media and in school. If our children walk into school with this kind of prejudice being taught . . ."

A moment of uneasy silence followed. Finally, a teacher asked, "What can we do?"

"First you have to get rid of the misinformation in the schools," replied Knockwood. "Our children don't need it, the whites and the other children don't need it."

Then, he said, the schools must promote a more accurate and positive image of the Indian's history, culture and contemporary activities.

The Indian group complained that they had been asked to "perform a miracle" by telling the group "all about our culture in half a day." They also felt they should be the ones writing the instructional material, rather than a group of non-Indians.

Nevertheless, they promised to continue to help because, as they told the teachers, "You're with our children day after day; you're important to us."

The teachers were then divided into small groups and, with the morning's admonitions in mind, began to prepare lessons, materials and techniques for a more accurate curriculum on the Native American.

One group produced a lesson focusing simply on the stereotype versus the reality of the American Indian past and present. Another created a lesson on common American foods that are the contributions of the Native Americans. And a third group compiled a list of dozens of streets in Boston named after Native Americans and began to research each name.

Several junior high teachers came up with more theoretical lessons on such topics as "Confrontation, Power and Oppression," "The Mashpee Land Controversy" and "The Modern Indian in Transition."

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MINORITY—[illegible]

July 30, 1979

Mr. Clifford Saunders
Executive Director
Boston Indian Council
105 S. Huntington Avenue
Jamaica Plain, Massachusetts 02130

Dear Mr. Saunders:

Thank you for your testimony at the July 26th hearing before the Elementary, Secondary and Vocational Education Subcommittee. We indicated at that time that the following questions would be submitted to you in writing. The questions, along with your answers, will be included in the final printed hearing record:

1) In your testimony, you pointed out the need for comprehensive programs to meet the needs of Adult Indians. Do you feel this will require a new programmatic activity? If so, could you detail some of the parameters, i.e. placed in what Department or Agency, the nature of activities to be funded, grant or contract, recipients and target group, amount of money, etc.

2) Will the new data collection requirements (Section 1148, P.L. 95-561) cause any problems for Indian students in the Boston public schools?

3) Can you elaborate on your concept of an Indian Education Data Bank, which you mentioned on page 5 of your prepared testimony?

In order to facilitate the work of the Subcommittee in preparing this hearing for final publication, I hope you will respond to these questions as quickly as possible.

Thank you again for your cooperation.

Sincerely,

Carl D. Perkins
Chairman

CDP:st

Boston Indian Council, Inc.
105 SOUTH HUNTINGTON AVENUE
JAMAICA PLAIN, BOSTON, MASS. 02130
Telephone 232-0343-44

September 12, 1979

Carl D. Perkins, Chairman
Committee on Education and Labor
House of Representatives
2181 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Perkins:

In response to your letter of July 30, 1979, I have included the following information concerning the questions generated by my testimony at the July 26, 1979 hearing on implementation of the proposed rules and regulations of the Title IV sections of the Educational Amendments of 1978.

1.) Meeting the educational needs of Indian adults does not require a new programmatic activity, but rather an expansion of the already existing Title IV C program in operation within the Office of Indian Education. Presently there is a $5.9 million appropriation to service the 40-50 Title IV-C programs which were funded for FY 1980. This small amount of funding creates a highly competitive situation amongst the 150-200 Indian tribes, Indian organizations and Indian institutions who applied for grant monies and who, in most instances have legitimate needs. Increasing the appropriation to a $20 million amount would certainly widen program impact; Indian tribes and organizations with valid Indian adult educational needs heretofore have not been funded because the existing system evokes such a highly competitive proposal review process, enabling the more sophisticated, but not always the most needy, or the most potentially effective programs, to receive grant awards.

Historically, perhaps there has been some unawareness and misunderstanding concerning the impact Indian adult education programs create. There has been a tendency in the past to fund programs for children; the rationale being that to change educational attitudes one must begin at an early age. The proven results that Indian adult education programs impact family and children are oftentimes overlooked. As Indian adults' basic skill acquisition increases, they become positive role models for their children, and ultimately act as advocates for their own children's education. One simmply cannot divorce Indian adult education programming from the family and community life.

Legitimate program activities for all Indian adult education programs should include the following: basic skills acquisition, job seeking and retention skills, cultural activities such as beadwork, basketmaking, quillwork, etc. (note: frequently it is these cultural activities which draw the student into the program and ensure continued and regular attendance), preparation for the high school equivalency, career and prevocational counseling, and study skills development. Since the use of Indian para-professionals is a key element in many Title IV-C programs, staff development and training is critical if the goal of creating a group of competent community based professionals is to be achieved.

2) The new data collection requirements (Section 1148, P.L.95-561) do not pose any problems for Indian students within the Boston Public School System. All Indian students fulfill the criteria in the enrollment guidelines, and we do not foresee any problems in meeting same.

3) To date there is no formal mechanism to obtain vital information for Indian educational programs. Establishing a Data Bank for Indian Education was first suggested by Viola Peterson, Chairperson of the National Advisory Council on Indian Education. This system would include the following: a listing of all Indian tribes and organizations operating educational programs, and descriptions of same, listings of all Indian medical doctors, engineers, lawyers, etc. for use as resource people for career programming etc., a register of all Indian crafts people and artists for use in cultural programming, and finally a clearing house for prospective employees in the field of Indian education. This Data Bank could also keep an up-to-date compilation of all relevant and useful articles, journals, etc. on Indian education.

Sincerely,

Clifford Saunders,
Executive Director

STATEMENT OF JAN LONGBOAT, PROJECT DIRECTOR FOR WATERFORD PUBLIC SCHOOL, WATERFORD, MICH.

Ms. LONGBOAT. Mr. Chairman, committee members and honored guests: I appreciate the opportunity to represent the native community of Waterford, Mich. Waterford is a northern suburb of Metropolitan Detroit.

I bring the following credentials:

Project director, title IV, part A, Indian education; board member, Michigan Education Indian Advisory Council; chairperson, American Indian Communities Leadership Council, and board member, Michigan Indian Information Association, Statewide Consortium, Training and Assistance for Indian Education.

Most native Americans residing in an urbanized environment for any period of time have experienced an almost complete cultural separation. This loss of heritage often results in a corresponding reduction in self-identification.

Title IV, part A, from the outset has proven a valuable tool, that has stimulated the nonreservation Indian to reach for a broader self-image.

Today I bring several concerns regarding Indian education in Michigan. The issue and main concern of eligibility for title IV, part A, remains confusing and open to misinterpretation.

The Federal rules and regulations state that: "Indian" means any individual who is a member of a tribe, band or other organized group of Indians.

Indian people are genuinely concerned as to the true meaning or definition of membership and/or organized group of Indians. Does a membership to any Indian organization—both Indian and non-Indian members—validate eligibility for title IV, part A?

We have many urban native Americans in Michigan. Because of circumstances they are not registered on federally recognized tribal rolls. These people have been fully aware of their tribal heritage for many generations but would not be able to provide official documents.

One example would be: the chairperson of our Indian Advisory Council. This person is able to trace the migration of her Cherokee-Choctaw family from South Carolina to Oklahoma and onto Texas. Yet, no affiliation with official Cherokee tribal roles is available.

Is the intent of those in control to exclude Indian people?

Because the definitions remain vague, eligible participants are eliminated.

It is felt the Office of Indian Education should be commended. Their in-field staff have demonstrated practical familiarity with both State and local conditions.

The Office has always been willing to share benefits occurring, shown a willingness to listen to the concerns of grantees, and offered much needed professional guidance.

Our title IV, part B, technical assistance project has been eliminated from funding. This technical assistance will be sorely missed and leaves a large void that will be most difficult to compensate for. Michigan's participation in this article was titled "A Bridge Between Two Worlds"—most appropriate.

The dissemination of information and coordination between district programs that the "Bridge" provided Michigan participants will now have to be shouldered by an already overburdened Federal staff.

The Indian Self-Determination Act has provided positive motivational factors to the native peoples. The subtle barriers that existed between school administrations and the Indian communities are beginning to be challenged as lines of open communications are established. Many of the title IV, part A, projects have had a significant impact on the dropout rate of Indian students. It has encouraged individuals to seek alternatives through higher education.

The success of title IV has stimulated the formation of self-help organizations. Some examples of these community projects are native health careers program—Kweenah Bay and the bilingual program, Baroga, Mich.

Additional cooperative efforts are flourishing throughout the State of Michigan, as a result of the fundamental contributions of the intent of title IV, part A, Indian education.

American Indian communities leadership councils has been formed by a coalition of concerned title IV, part A, staff and parent committees, to increase efficiency of localized programs.

It has been indeed a pleasure to be here today to share our worthwhile concerns with you. Thank you for your kind attention.

Mr. KILDEE. Thank you very much.

[The prepared statement of Mr. O'Berry follows:]

PREPARED STATEMENT OF MICHAEL O'BERRY, CHAIRPERSON, TITLE IV, PART A, PONTIAC SCHOOLS, PONTIAC, MICH.

Mr. Chairman and Members of the Sub-committee on Elementary, Secondary and Vocational Education. I am accompanied today by Mrs. Helen Efthim, who is the Evaluation Research Assistant from ESEA Title IV , Part A, Pontiac Schools.

I am pleased to appear before this committee today to provide my views on Title IV. This is my first appearance before this sub-committee on Elementary, Secondary and Vocational Education and I would like to take this opportunity to extend my thanks to its members.

I currently have four children who attend school in Pontiac, Michigan, and most of my immediate family resides in Pontiac and within the boundaries of Oakland County.

It is my sincere belief that due to current poor attendance, high retention rates, minute educational achievements, excessive drop-outs, over-saturation of Special Education, poor housing facilities, high degree of mobility along with menial jobs among Native American families, I am led to conclude that the Native American population in this city is on the brink of facing an eroding and decaying human resources as well as a cultural drain which is so pertinent and viable to this city, state and country.

Some of our most salient problems we have within the Native American Community regarding education are discerned in our Interim Report which you have before you. This report was compiled with the help of the Native American Parent Committee members and the local education agency (i.e. Pontiac schools). As I stated earlier, Mrs. Efthim is accompanying me today and she will be more than happy to answer any questions that you might have regarding the Interim Report.

This Interim Report points out such salient problems as attendance, retention, achievement, drop-out and the fact that Native American Students are overly represented in the Special Education Program in Pontiac Schools. The basis for this report stems from sincere dedication, desire, determination and foresight among the Native American Parent Committee members and Local Education Agency (i.e. Pontiac Schools) to get documentation so that we would be in a better position to assess the potential impact ESEA Title IV part A could have on the students it is designed to serve.

At the inception of the ESEA Title IV part A in Pontiac, Michigan we served a minute number of students but we are now currently serving more than four hundred Native American Students. It is my contention that education is a necessary and viable tool for Native Americans if academic achievement coupled with cultural activities are to serve as promising benchmarks in meeting the challenges of today, tomorrow and the future.

We are continuing to witness a reluctancy among Native American families in Pontiac, Michigan to identify themselves as Native Americans. I attribute this continued reluctancy to peer pressure, stereotyping which is common in this Anglo-Society, and the lack of academic achievement along with opportunities for upward mobility among Native American Students.

At this time I would like Mrs. Helen Efthim to talk about the Interim Report.

If there is no more additional comment about the interim report, Mr. Chairman, and Members of the Sub-committee, I would like to present my views regarding the proposed Rules and Regulations regarding ESEA Title IV Part A.

Mr. Chairman and Members of the Subcommittee, I would like to call your attention to Section 186.12 (Eligibility) of the Federal Register, Volume 44, No. 127 Friday, June 29, 1979 page 38160. The questions I raised are as follows:

1. What proof and standard of requirement should be a local Native American Parent Committee and LEA use to validate Native American affiliation on the 506 form?
2. Is the signature(s) of parent(s) or their individual standing in loco parentis (i.e. in the place of the parent) the only validation that is needed?
3. Why should Native Americans be required to certify their heritage affiliation before they received Federal dollars for education when NO other ethnic group due to my knowledge are required to do so?
4. Why aren't the Southern tribes such as Aztecs who are citizens of this country not

I would next like to call your attention to Section 186.13 page 38160 (The Parent Committee Section)

The questions I raised are as follows:

1. Why is it that Secondary Students can serve on the parent Committee and Elementary Students cannot?
2. Why aren't the limitations of the Native American Indian Parent Committee policy making powers/on authority in conjunction with the LEA are not defined clearly?
3. Why aren't there any provisions to include the elders of the Native American Community in the Parent Committee Structure?

I would next like to call your attention to Seeting 186.22 page 38160 (Use of funds - Authorized Activities)

I would like to recommend the following regarding letter "h".

Educationally related items that parents cannot afford such as academic expenses (this should be clearly defined as to what is specifically meant by academic expenses) food, clothing, babysitting, transportation cost to attend local Native American Workshops, parent committee meetings, medical, dental care and extra curricular activity expenses (this should also be clearly defined as to what is specifically meant by extra curricular activity expenses.)

I would next like to call your attention to section 186.32 page 38160 (Project Design)

I concur with all of the proposed language as read, however, I would further like to recommend that if this proposed process is going to be highly effective, consideration should be given to the following:

A. The funding base for LEAs must increase

B. OIE must make this a priority and allow for adjustments in LEA budgets

C. Allocate special funds for evaluation

BIOGRAPHICAL SKETCH

NAME:	Michael O'Berry
POSITION:	Chairperson for Title - IV Part A - Pontiac Schools
BIRTH PLACE:	Pontiac, Michigan
DATE:	January 21, 1941
EDUCATION:	High School Diploma (Pontiac Central 1959)
NATIVE AMERICAN AFFILIATION:	Original Board of Sault St. Marie St. Marie Chippewa Indians
EXPERIENCE;	Member of NAFU (i.e. Native American Indian Organization For Unity) Chairperson for Native American Indian/Bilingual Program Member of Michigan Department of Education State Wide AD-HOC Committee

STATEMENT OF MICHAEL O'BERRY, CHAIRPERSON, TITLE IV PARENT COMMITTEE, PRESIDENT, NATIVE AMERICANS FOR UNITY ORGANIZATION OF MICHIGAN, PONTIAC, MICH.

Mr. O'BERRY. Mr. Chairman and members of the subcommittee: I am Michael O'Berry. I was born in Pontiac on January 21, 1941. I graduated from Pontiac High School in 1959. I am a member of the original band of Sault St. Marie Chippewa Indians. I am a member and not the president of NAFU. I am also the chairperson for the native American Indians bilingual program in the city.

I am a member of the Michigan Department of Education, Statewide Ad Hoc Committee. I am accompanied by Mrs. Helen Efthim, evaluation research assistant from ESEA title IV, part A, Pontiac schools.

I am pleased to appear before this committee today to provide my views on title IV. This is my first appearance before this Subcommittee on Elementary, Secondary and Vocational Education and I would like to take this opportunity to extend my thanks to its members.

I currently have four children who attend school in Pontiac, Mich., and most of my immediate family resides in Pontiac and within the boundaries of Oakland County.

It is my sincere belief that due to current poor attendance, high retention rates, minute educational achievements, excessive dropouts, oversaturation of special education, poor housing facilities, high degree of mobility along with menial jobs among native American families, I am led to conclude that the native American population in this city is on the brink of facing an eroding and decaying human resource as well as a cultural drain of a culture which is so pertinent and viable to this city, State and country.

Some of our most salient problems we have within the native American community regarding education are discerned in our interim report which you have before you. This report was compiled with the help of the Native American Parent Committee members and the local education agency—that is, Pontiac schools.

As I stated earlier, Mrs. Efthim is accompanying me today and she will be more than happy to answer any questions that you might have regarding the interim report.

This interim report points out such salient problems as attendance, retention, achievement, dropout and the fact that native American students are overly represented in the special education program in Pontiac schools.

The basis for this report stems from sincere dedication, desire, determination and foresight among the Native American Parent Committee members and local education agency—that is, Pontiac schools—to get documentation so that we would be in a better position to assess the potential impact ESEA title IV, part A, could have on the students it is designed to serve.

At the inception of the ESEA title IV, part A, in Pontiac, Mich., we served a minute number of students but we are now currently serving more than 400 Native American students.

It is my contention that education is a necessary and viable tool for native Americans if academic achievement coupled with cultural activities are to serve as promising bench marks in meeting the challenges of today, tomorrow and the future.

We are continuing to witness a reluctancy among Native American families in Pontiac, Mich., to identify themselves as Native Americans. I attribute this continued reluctancy to peer pressure, stereotyping which is common in this Anglo society, and the lack of academic achievement along with opportunities for upward mobility among native American students.

At this time I would like Mrs. Helen Efthim to talk about the interim report.

STATEMENT OF HELEN EFTHIM, EVALUATION RESEARCH ASSISTANT, PONTIAC SCHOOLS

Mrs. **Efthim**. From the point of view of someone who has worked in the LEA and researched for nearly 10 years, I would say that 2 or 3 years ago most people in the school district would have rightly, from the point of view of the data, have thought that the native American population was very small, that the achievment which it demonstrated was about average and there were no particular problems.

This is what our data showed. We had only 35 students listed as Indian.

At this time, after 2 years of very hard work and with title IV funds and the energy of the Native American Parent Committee, 429 students have been identified, and we expect that number to top off at somewhere around 600. This is in a fairly small school district of only 9,000 students.

As Mr. O'Berry said, most students and parents are not yet willing to identify themselves to the school as Native American. They are afraid of discrimination.

We have also found that hiding doesn't work. Concealing your identify as an Indian does not work, at least in the Pontiac school system. The problems have followed the Indian students right into the cities and are essentially the same as Indian students face on the reserves or near the reserves.

Worse yet, in the city they are people without a land base and were essentially without resources until title IV and certainly without recognition.

We find a pattern of overage students because of excessive grade retention. We find 16-year-old students forced to read fourth grade textbooks because of their low reading level. We find they are on average 3 years behind in grade level in language skills. This is true for those who have hung in to take the tests at eighth grade level. Perhaps half of the students are gone before the end of the eighth grade.

Our dropout rate has been measured at 60 percent last year. On the longitudinal studies we expect it is actually much higher than that. We have only a handful of students who make it to the 12th grade level.

It seems to us that Indian students are only loosely invested in the schools, not of their own choosing necessarily. By that we mean their absenteeism rate is far higher, especially in the secondary level more so than any other group.

We find that the rate of suspension from school and of disciplinary actions taken against them is far higher than for any other group.

We find that the students and, again, particularly at the secondary level, are so mobile, both within the district and in and out of the district that all of the tardy lists have to be changed every few days or weeks.

The Indian community in Pontiac is gathering to help its children and they need all the help they can get. We find from all the surveys that we have done our urban Indian parents feel very strongly the importance of their children graduating from high school, getting higher education and learning trade skills—all are important to the parents. It is not a matter of their not being concerned.

We are very concerned that urban LEA's are beginning to be cognizant of these problems and are reaching out to cooperate with the Indian community to help be assisted, particularly in those areas where the number of Indian students is significant and the percentage is not. Other cities have had the same kind of pattern where the problems are hidden and really not recognized.

Mr. KILDEE. I thank all of you for your testimony. I will ask questions. I may direct them at an individual but if you feel you have something to say about the question, feel free to join in.

Mr. Saunders, you mentioned on page 4 of your testimony the need for a new definition of Indian student.

Do you have any recommendations as to what that new definition should be?

Mr. SAUNDERS. Obviously, that is a hard question. Maybe I can relate to what our problem is in Boston. I have experienced the same kind of thing where kids do not want to identify as being Indian, but we have found other kids wanting to identify as being Indian. Our project director went out and decertified 57 people. Our concern is and the parent committee is concerned that those services go to Indians. For example, built into our part A program are certain line items that will provide shoes to children who cannot go to school otherwise. They want to make sure those shoes go to Indian kids.

As far as what a definition should be, perhaps if it could be a twofold definition, one if you are a tribal member that could be verified, fine; second, maybe there should be a blood quantum. But I think it is imperative that children who do not have significant blood quantum, have no connection with Indians within the city, do not feel a part of the community, should not be receiving part A benefits.

Mr. KILDEE. Anyone else care to comment?

Mr O'Berry.

Mr. O'BERRY Mr. Chairman and members of the subcommittee, I would like to call your attention to section 186.12—Eligibility—of the Federal Register, volume 44, No. 127, Friday, June 29, 1979, page 38160. The questions I raised are as follows:

One: What proof and standard of requirement should be a local Native American Parent Committee and LEA use to validate Native American affiliation on the 506 form?

Two: Is the signature(s) of parent(s) or the individual standing in loco parentis—that is, in the place of the parent—the only validation that is needed?

I, as a Native American, know my heritage, know who I am, and what I am.

A card with an enrollment number or anything else means nothing to me. The question that I asked, why should native Americans be required to certify their heritage affiliation before they received Federal dollars for education when no other ethnic group to my knowledge are required to do so.

I believe certification by blood line or by roll numbers are detrimental to the program the way it is set up now. I think the solution should be left up to the local parent committee who are Native American and these people do have a tendency to not want outsiders within their group. Let them decide who is eligible to receive part A funding. We are a race.

Thank you.

Mr. **Kildee**. There would then be a question, how do you determine who would be qualified to serve on that parent committee.

Mr. O'**Berry**. First of all, in our school district, there is a great reluctancy and a great distrust of Federal programs amongst the Native American population. I will give you an example of that.

It took me 7 months of going back and forth [illegible] and explaining to a Native American group to have them [illegible] 506 forms. To do what they are requesting now would [illegible] fire of fear and distrust of Government.

The things that are within title IV are directed toward Indian children, and even though there may be an influx of nonwhite children they do not stay.

To answer Miss Longboat's question on groups, under the data collection it says that Indian organization must have 51 percent certified Indians in order to be certified Indian under that act.

The thing I would say, let the people choose, and I am quite sure the Native American people who are there will not fade away tomorrow. If you do things that are good, you will get a good input from the native American community.

But today, from my understanding of that, we have no right to challenge a 506 form. This has been a heated problem in our schools. We do not have a right to challenge that 506 form. We have a right to review it and correct any problems with it, but we do not have a right to challenge a person's heritage.

Mr. **Kildee**. Miss Longboat, what changes do you recommend in this definition?

Ms. **Longboat**. I in no way claim to have all the answers or even half the answers. I can see both sides of the coin.

Being a tribal member, and being an Indian who is not affiliated, I think our district is a little bit different than Pontiac, although we are side by side in that Pontiac is a city and the Indians that came to Pontiac came as family groups and stayed as family groups. But in Waterford, they came and went, came and went. Therefore, they would have a little bit more of a problem tracing back their tribal identity, so to speak.

For example, if a person, a nonunion person went up to the Saginaw, Michigan area and asked if they know of any Indian people in the area, they would hear sure, there are a lot of Indian people. They have been here for generations. But they are not affiliated with rolls.

Indians know who they are. They do not need the Federal Government to tell them who they are. So whatever changes are made, I hope it does not exclude any Indian people not affiliated with a tribal roll.

Mr. **Kildee**. You are not afraid then of inclusivity, you would be more afraid of excluding people who should qualify for the services? You would be more reluctant to exclude those who are Indian even though they may have some problems with fitting a definition?

Ms. **Longboat**. I certainly would not want to be the one to make the decision in Michigan.

Mr. **Kildee**. Again, Mr. Saunders, on page 5, when talking about the new regional resource centers, you mentioned in the past other contractual activities have failed. Could you elaborate on these?

Mr. **Saunders**. Speaking to that, not necessarily dealing with the Office of Education. In my experience, I have dealt with a number of Federal agencies, what has happened, and in many instances things happen without sufficient Indian input.

For example, the contracting procedure will be advertised in the Commerce Business Daily rather than in the Federal Register. I am just concerned that any people who have sufficient amount of input into what is going to happen in these regional centers, I do not want these things to happen in a vacuum and something coming down being imposed on us. That is what I mean having contractual agreements with other agencies in the past when, wham, you get a notice in the mail as to what is happening. I want to see that avoided.

Mr. **Kildee**. Mr. O'Berry, you mention there has been a reluctance of certain families in the Pontiac area to identify themselves. Can you give us any idea as to how this can be overcome?

Mr. **O'Berry**. First of all, sir, this part A program is probably the eighth program proposed to the citizens of Pontiac. The native Americans refused to take the funding because of a failure in compliance that it serve Native Americans only.

My family migrated from the Sioux in the 1900's. They had an active band in the 1930's and 1940's that was not recognized. Because of that, I had personal knowledge of people who were Native American. We currently have 198 people certified members of tribes or federally recognized bands.

I think if you allow this power to come back to the local-based group, the parent committee, and let their discretion be the judging force as to who is eligible and who is not, I think a lot of these problems will be eliminated. But as it is today, we have no way of policing who is served and who is not. I understand there may be some school districts who abuse this privilege and do in fact falsify 506 forms.

But I want to say, the funding base is so low, who would want to take a chance of falsifying 506 forms?

Mr. **Kildee**. Have you found any evidence that the success of this program in itself might break down some reluctance of Indians?

Mr. **O'Berry**. Yes, sir, from the inception of this program, we have done a lot of good things in Pontiac. We have currently a minicoyote group; we have a youth group that is active; we have meetings of generally 35 to 40 people at every parent meeting we have. There is a genuine interest in the community because of the program and the things we are doing. We are certainly concerned with our kids and the parents have shown this. When we first started this, we had 148 people we were serving, and we were lucky to have 3 parents come to a parent meeting.

There have been a lot of overtones from the Cherokee and Iroquois, and because we do have a lot of Chippewa and Ojibway people, we have started to revise the program to include those groups. The program is a good program.

Mr. KILDEE. Cultural awareness will help generate cultural pride?

Mr. O'BERRY. In Pontiac, the Indian community has settled in certain parts of the town. They have not been assimilated in the white man's culture. What has not happened is the loss of family ties in the Indian community. It is there and it is viable. There have been a lot of mistakes made in the past and I hope we do not make any more. With the direction and lack of communications we have experienced from the Office of OIE, we have made a lot of mistakes. We have been misdirected and misguided several times, I hope this does not happen again for us because it has created a lot of problems for us.

Mr. KILDEE. Counsel.

Mr. LOVESEE. Thank you, Mr. Chairman. Mr. Saunders, you mention in an addenda to your testimony, the National Indian Adult Education Association.

First, what is the affiliation between your organization and this organization? Second, would you suggest that the committee look at an entirely different thrust in the area of Indian adult education? Maybe you would then if your answer is yes to that, submit for the record information on what direction you think that thrust should take.

Mr. SAUNDERS. We do not have a direct link with that association. It is a group of people who just got together a year or two ago. We are well-acquainted with the individuals who are officials there and we pretty much involve ourselves in sharing information. So, it is an informal link at best.

Mr. LOVESEE. Would you suggest this committee form a link?

Mr. SAUNDERS. Definitely so.

Second, appropriations. Adult education is always at the bottom of the heap. To my own way of thinking, adult education has had a greater impact on the community, probably greater than part A and B.

The participants and graduates have assumed leadership roles in the community; they as parents have made education seem more attractive to children.

As I mentioned before, the education level of our people is very low, eighth grade. A lot of this is attributed to the parents seeing very little benefit from education. Adult education gives the parents and grandparents the idea there is some benefit from education. They see some benefit for their own lives, it increases self-worth. An individual can now read a newspaper, can now go to the corner store and converse with another person.

I think adult education deserves a great deal more support from Congress because I think it has a vital impact.

Mr. LOVESEE. My other question, which was general, deals with the information flow from the Office of Indian Education. It again is twofold. No. 1, you seem to have problems with the information or technical assistance that has flowed.

What is your experience with respect to information regarding the proposed regulations? Were they sent directly to you? Were you told they were coming? Or did you find it out by simply keeping abreast of the Federal Register?

Second, do you anticipate the new resource centers will be a positive factor, with more information being delivered to you at the local level?

Mr. SAUNDERS. I found out about the regulations from just watching the Register every day. At some point thereafter I was notified by NACIE, that the regulations had been published. There is an education director who may have received the information.

Second, I am very skeptical about the centers. The assistance and technical assistance has not been as good as it could be and I attribute that to lack of staffing and funds.

For example, Northeastern University and Boston are very interested. They are asking when is the concept coming into effect? I am afraid they are looking at this as a sort of income. From past experience, we have been burned a lot and I am very skeptical of non-Indian institutions acting paternalistic and wanting to force things on us. That is my concern about the regional training centers.

Ms. LONGBOAT. I do not see it having a great impact being so far away from us. I think we need technical assistance such as we had last year. I think technical assistance is very crucial right now in Michigan.

Mr. O'BERRY. I think the first question that Mr. Lovesee asked, when did we get the regulations. I took note Dr. Gerry Gipp said they were sent out to the chairpersons. I received my copy of regulations last Friday. We had one, and that is the extent of my knowledge of the regulations. The flow of information from the OIE and the projects, it has been my experience that it is a shortcoming. The communication between the projects and OIE has been very lax. I do not know if it is due to understaffing or lack of moneys. But my thoughts are that it has not been sufficient for projects in the direction of the project or on the communication level.

Regional training centers, it is my personal belief, are a needed thing. I would hope there would be enough of these centers where the population could be served, because there is a great need for this technical training.

I hope at the inception of these centers, they are not manned by people insensitive to native Americans' needs, and that the Native American communities whom they are going to serve will have an opportunity to have a voice in the programing of that center.

Mr. LOVESEE. Thank you, Mr. Chairman.

Mr. KILDEE. If the new 506 form is designed to bring together additional data rather than to determine eligibility, do you think it might be better to have two forms, with one form as being optional? It is a possibility that has occurred to me.

Mr. O'BERRY. First of all, sir, as I looked over the criteria for data collection and evaluation in the proposed amendments we have before us, I find finally there is an awakening that the hard data is something that is needed in order to know where we are going. All the things spelled out in that evaluation sector just says one more thing to me, we are operating in a very low budget. What provisions are going to be made for funding for evaluation and the direction of OIE toward evaluation?

This year we allocated $5,500 out of our budget and we were called down by Washington as to why.

We have an ongoing evaluation each and every week within our school district and this cost is one-tenth of what the cost of that program will be through evaluation. I believe the new forms are going to be a hardship to the programs. They are going to be detrimental and it will be very hard to get them filled out by the community.

Mr. KILDEE. We would like to submit some written questions to you, if you will respond to those, and they will be part of the record.

I would like to thank you very much for your testimony this afternoon.

Our last panel today will consist of Shirley Hendricks, coordinator, Indian education programs, Los Angeles Unified School District; Mrs. Wathene Young, codirector, education of professionals for Indian children, Northeastern State University, Tallequah, Okla.

STATEMENT OF WATHENE YOUNG, CODIRECTOR, EDUCATION OF PROFESSIONALS FOR INDIAN CHILDREN, NORTHEASTERN STATE UNIVERSITY, TALLEQUAH, OKLA.

Ms. YOUNG. We appreciate your time and endurance. It has been a long morning.

I have submitted written testimony, so I will very briefly highlight.

Mr. KILDEE. That written testimony will be part of the record, then.

[The prepared statement of Ms. Young follows:]

PREPARED STATEMENT OF WATHENE YOUNG, EDUCATION PROFESSIONALS FOR INDIAN CHILDREN (EPIC), NORTHEASTERN STATE UNIVERSITY, TAHLEQUAH, OKLA.

Until the passage of the Indian Education Act in 1972 Indian people have had very little control over the education of their children. Since Title IV has come into effect Indian people have become involved in the education of their children. For the first time, Indian parents are attending school meetings and talking to administrators and teachers, telling them their children's educational needs and how they can be met more effectively.

Not only has Title IV made an impact on parental involvement, but Title IV has been providing monies to train professional Indian educators so we, as Indian people, can serve as teachers of our children. This lack of professional Indian educators has been one of the greatest detriments to the proper education of our Indian children. Over the past five years the Office of Indian Education has funded 16 teacher training programs. As a participant and now as a staff person of one of these training programs, I would like to spend the next few minutes giving you an accounting on the return of your investment.

Our teacher training program in Tahlequah, Oklahoma, Education Professionals for Indian Children (which I will call EPIC for short) can be used to illustrate the needs being met not only by our program, but by all the other teacher training programs throughout Indian country.

EPIC is a project conducted cooperatively by Northeastern State University and the Cherokee Nation to improve the delivery of educational services to Indian students by increasing the number of Indian educators with academic and bicultural capabilities necessary when working with Indian children in an educational setting.

The program has been so successful that Northeastern was presented the Distinguished Achievement Award by the American Association of Colleges for Teacher Education. This award is the highest in the nation for excellence in teacher education. Northeastern was selected for the award because of its superior Indian teacher training program.

EPIC is founded on the premise that the most effective training design for Indian educators is one which allows for simultaneous and inter-related training of key Indian educators (teachers, counselors and and administrators) and that this training must be conducted not only in college classrooms but also in the schools where the Indian children are.

EPIC consists of three separate inter-related training components. A pre-intern teaching component for Indian students interested in preparing for careers teaching Indian children. The students serve as pre-intern teachers in a predominately Indian school one day a week for 16 weeks during their sophomore year. Approximately 30-40 Indian students participate each year.

The second component is an Intern teaching component for senior students who intern for 16 weeks in a predominately Indian school. EPIC trains and graduates 30 Indian intern teachers each year.

In 1977 a graduate component was added to train ten Indian graduate students in counseling and administration. These students serve as counselor-administrator interns two days a week for 32 weeks in a predominately Indian school.

The students also attend ten seminars each semester devoted to: Indian History and Culture, working with Indian parents, Career Education, Consumer Education and Curriculum Development.

EPIC trains about 80 Indian students each year who during this training period reach approximately 2,000 Indian children in 24 rural predominately Indian schools in a four-county area.

The rationale for EPIC is quite simple. There is great need, not only in Northeastern Oklahoma, the home of nearly 50,000 Cherokees, but throughout the state for Indian educators.

At present, Indian students are taught principally, as I was, by teachers from a non-Indian culture. In a 1976 survey of educational needs of Indian people in Oklahoma, the state with the Nation's largest Indian population, only 15 Indian counselors, 21 Indian administrators and 288 Indian teachers were identified. These figures are very low considering there are 66,000 Indian students attending Oklahoma public schools. Indian students make up 10% of the state school population and only 1% of the educators are Indian.

The basic service area for EPIC includes the four counties of Cherokee, Delaware, Adair and Sequoyah. Within these counties are 24 rural schools with an Indian population ranging from 50% to 98%. There are fewer that 10% Indian teachers and no Indian Counselors or Administrators in these schools collectively.

In a recent needs assessment survey of these schools, 76% expressed a need for Indian teachers, 83% said there was a need for more Indian counselors, and 66% indicated a need for Indian administrators. So, we see the need the schools speak of, but, what do the children say?

As we already know, American Indians have the highest drop-out rate of any ethnic group. Indian students are receiving failing grades in high school courses at approximately five times the rate of non-Indian students. Standardized test results show most students in the project area to be far below the national norms.

This all adds up to painfully strong evidence in support of the self-fulfilling prophecy of failure found in a large percentage of these students. This failure identity is created and reinforced by tragically low self-concepts.

Even with this information in hand there are few attempts being made in schools to relate curriculum to the Indian culture. I speak from personal experience when I say that until enactment of Title IV there was practically no effort made to teach Indian History, culture and contributions in a manner to help Indian students achieve a high self-image. Even experienced and concerned educators are not usually capable of helping Indian children to overcome cultural disadvantages.

This is because they have not been properly prepared to understand and deal with the special problems of Indian students. Indian educators have a broader knowledge of Indian problems and can understand learning difficulties that stem mainly from cultural and educational differences. Indian educators possess a greater sensitivity to the unique needs of Indian children. They are committed to fostering those characteristics and attitudes necessary for survival in today's society while also maintaining their Indian individuality and respect for tribal unity and welfare. EPIC strives to instill this dedication in it's program participants.

A great number of benefits can be derived from employing the knowledge and talents of Indian education professionals in our schools. The benefits are not only to Indian students, but ultimately to our entire society. Some of the benefits are as follows:

Indian teachers, counselors, and administrators will serve as successful role models for Indian students. This has a strong motivational impact on students, and improves their self-concept.

Indian people will be less alienated by schools because people of their own race will be in educational positions in those schools.

Teacher Interns develop Indian curriculum to be used by the schools and the retention of Indian students should be improved because curriculum will be made more relevant. Students will receive positive instruction about Indians from Indian educators with whom they can identify. Hopefully, self-esteem will be improved. Thus, better grades will follow.

All curriculum materials, information, and expertise developed as a result of EPIC have been made available to other state institutions and public schools concerned with the preparation of teachers.

Specifically, the tangible returns from your investment are:

IN A FOLLOW-UP STUDY DONE IN 1977 THE SURVEY SHOWS THAT EPIC graduates employed in Indian education are having significant contact with approximately 12,380 Indian children in six states.

Our follow-up study done through the spring of 1978 show that of 167 graduates 78.2% are working with Indian people as teachers or in other related areas.

EPIC has provided a pool of Indian educators who are being recruited and hired by school districts throughout the state and in surrounding states. We are providing highly trained certified staff for many Title IV programs.

Many of our graduates started out 5-6 years ago as teacher aides in JOM, Title I or Title IV programs. This semester 40% of our participants were originally aides. So Title IV has provided many education incentives to the Indian community.

Due to their training, our graduates are making salaries ranging from $10,000 to $25,000. Not only do their higher salaries benefit the individual and the area they live in, but more taxes are paid for supporting our federal government.

With our four-county area being the second largest welfare area in the country, Title IV is also making an impact on the welfare rolls. Seventy of our graduates or 42% are now employed as Indian educators in this four-county area.

EPIC has been a training program for members of 26 different tribes and many of these participants have returned to their tribal areas for employment.

EPIC was just awarded a consumer education grant to provide consumer education for our 24 rural Indian schools. Our Indian interns will be taught how to develop consumer curriculum units and be required to teach those units that have been designed especially for Indian students in our rural schools.

Due to our three-year funding period EPIC has the opportunity to project some long-range goals. By the end of our funding cycle in 1981 we will have graduated 256 teachers and 40 counselor administrators.

So, you see, every dollar put into Indian education is well invested. Society will reap the reward of the extensive training we are providing long after the monies are gone. Our Indian educators will touch the lives of thousands of students for years to come.

Let me caution you not to assume that by these projected statistics our needs will be met. Even though national statistics indicate that there is an over abundance of teachers (this is one of the arguments used by opponents of Title IV to discontinue funding for teacher training of Indian educators).

Let me point out that if there is such an abundance it does not exist in the Indian world. Quite the contrary, since the destruction in the 1800's of tribal governments and tribal control of its education system there has been a severe shortage of Indian education personnel involved in the teaching of our young people. Continual funding of Title IV will benefit our national education system by decreasing this shortage and showing Indian youth that America is for all people.

Speaking specifically to Oklahoma, we are flooded with requests for Indian teachers, counselors and program administrators. These requests cannot possibly be met by our graduates. The need is so much more than we can produce.

But we have only started to make progress. The first five years have been spent exploring, making mistakes, correcting mistakes, learning about our people's needs and how to best meet them. We are just now beginning to develop sound educational programs that are culturally relevant. We are just now graduating Indian people who have the education and the cultural background with which to become effective educators of their own children.

The culture of the American Indian, the only culture indigenous to this country, must be recognized as important and worthy of respect. Only then will our children develop positive self-concepts. This recognition can be shown by the funding of Indian Education programs, a large corp of Indian educators and a school curriculum that speaks well of my people's culture & heritage.

Today I have spoken primarily about the educational conditions in Oklahoma. I do not want to leave you with the thought that only in my home state is there a need for money to upgrade education of Indian children. These same conditions exist in other states where Indian citizens live. In regard to teacher training I pointed out earlier there is a total of 16 programs now being supported by Title IV. There are many programs which are needed but not funded because there is not enough money to go around. I know one example on the Jicarillas Apache reservation where a recent survey shows not a single Jicarillas teacher in the school serving this isolated tribe and yet their request for funds to support a cooperative program with the University of New Mexico was turned down. Our arguments should not be is Indian teacher training justifiable, but is the small amount of money put into this effort adequate.

Past Performance

The following pages present some statistical data reflective of program performance during the past five years (1973-78). While the information presented does not approach telling the complete story of what has happened, it does provide a basis for judging EPIC's production record, job placement at graduation, quality of participants now working and future plans.

There are four tables consisting of follow-up data. Table I is an employment study showing the present status of the 167 participants who graduated from the program between the spring semester of 1973 and spring semester of 1978. Of the 167 graduates 78.2% are working with Indian people either teaching or in other areas.

Table II is an evaluation of the program by past participants. Questionnaires were mailed to 137 past participants and 88, or 64 percent were returned.

Table III reports data obtained from employers about the working effectiveness of past participants now employed in teaching or with Indian tribes or organizations. Of the 106 questionnaires mailed, 67 percent were returned. Please note that the table reports data on Sections B, C and D only. Section A consisted of employer data important to program personnel but not relevant for reporting. All employers reported on Section B, only those supervising teachers on Section C and only those supervising employees of Indian tribes or organizations on Section C. This accounts for the discrepancy in figures. Also, not all employers responded to each item.

Table IV is a graph showing an eight-year production plan beginning in 1973 and ending in 1981, final project year if multi-year funding is received. The graph shows the number of persons participating in EPIC as pre-interns, interns and graduate students. Also, the graph reveals the number of persons completing the baccalaureate degree (162) under EPIC and the number anticipated by 1981 (296) if funding is continued.

TABLE I

INDIAN INTERN TEACHER TRAINING PROJECT

EMPLOYMENT FOLLOW-UP STUDY
Spring 1974--Spring 1978

MAJORS	Elem Ed.	Physical Ed.	Home Ec.	English	Business	Indus. Arts	History	Art	Math	Special Ed.	Speech	Science	Counseling	Lib. Sci.	TOTALS	% Ages
*Teaching Indian Children	56	18		6	2	1	3	3	1	7	1	1		1	100	60.0
*Counseling Indian Students													12		12	7.2
*Non-Teaching Working With Indian People	5	2	4		4		2							1	18	11.0
Teaching Non-Indian Schools						1	1								2	1.2
Other Employment		1			3	2	2								8	5.0
Unemployed	4	1	2			1				1					9	5.4
Unknown						1									1	0.1
Graduate Students	6	3	1		2	1	1			1		1			16	10.0
TOTALS	71	25	7	6	11	8	9	3	1	9	1	2	12	2	167	100
Employed All Categories & Graduate Students	67	24	5	6	11	5	9	3	1	8	1	2	12	2	157	94
Unemployed, Unknown	4	1	2			3				1					10	6
TOTALS	71	25	7	6	11	8	9	3	1	9	1	2	12	2	167	100

Note: Fall 1978 participants not included due to recency of graduation.

*78.2% working with Indian people either teaching or other. Graduate students not counted in this figure.

NSU EPIC PROGRAM

FOLLOW-UP SURVEY

NAME	DATE OF INTERNSHIP	JOB DESCRIPTION
Gary Allen	Spring of 1974	Art Instructor Jr. Hi & H.S. Hugo, Oklahoma
Swimmer Baldridge	Spring of 1974	Social Worker I DISRS, County Court House Claremore, Oklahoma
Betty (Kent) Carter	Spring of 1974	Elementary Art Instructor Peavine Elementary School Stilwell, Oklahoma
Della F. (Remer) Cherry	Spring of 1974	Language Arts Teacher Jr. Hi School Van Buren, Arkansas
Allan Colbert	Spring of 1974	Athletic Director Chilocco Indian School Chilocco,Oklahoma
James Croft	Spring of 1974	Principal Gregory Elementary School Inola, Oklahoma
Kinny (Blakemore) Davis	Spring of 1974	Social Worker Okla. State DISRS 914 So. College Tahlequah, Oklahoma
Linda E. Davis	Spring of 1974	Elementary Teacher Leach Elementary School Leach, Oklahoma
Tommy L. Doyle	Spring of 1974	Program Specialist Indian Consulting Firm 6363 E. 31st Tulsa, Oklahoma
Ronald W. Gage	Spring of 1974	Field Service Representative Albert Equipment Co. Warner, Oklahoma
Johnny Gregory	Spring of 1974	Physical Education Teacher Bell Elementary School Stilwell, Oklahoma
Ruby G. Herndon	Spring of 1974	Remedial Reading Teacher Oaks Elementary School Oaks, Oklahoma

Donna S. (Padgett) Hill	Spring of 1974	Indian Counselor Cherokee Nation C.E.T.A. Program C/o Wyley Hall, NSU Tahlequah, Oklahoma
Vance O. Hofsechief	Spring of 1974	Industrial Arts Instructor Baxter Springs School Baxter Springs, Kansas
Wanda Sue Hudson	Spring of 1974	Elementary Reading Teacher Zion Elementary School Stilwell, Oklahoma
Lena Kimble	Spring of 1974	Remedial Teacher Elementary School Marble City, Oklahoma
Irene Kupsick	Spring of 1974	Cooperative Counselor Cherokee County Elementary Schools Tahlequah, Oklahoma
Donald Langston	Spring of 1974	Assemblyman Bendix Mobile Home Co. Ottawa, Kans.
Pauline Limore	Spring of 1974	Teacher, Flaming Rainbow University Tahlequah, Oklahoma
Karen (Thomason) Mathis	Spring of 1974	Unemployed
Maudie (Asbill) Mattox	Spring of 1974	Elementary Teacher-Gr. 4 Greasy Elementary School Stilwell, Oklahoma
Betty (Hardcastle) McAfee	Spring of 1974	Elementary P.E. Teacher Grant Foreman Elementary School Muskogee, Oklahoma
Jack Morris	Spring of 1974	Ass't. Manager. Handy Dan's Tulsa, Oklahoma
Spencer Morris	Spring of 1974	Elementary Teacher Zion Elementary School Stilwell, Oklahoma
Jacqueline Mading	Spring of 1974	Math Teacher High School Claremore, Oklahoma
Betty Pitts	Spring of 1974	English Teacher High School Webbers Falls, Oklahoma

Alma Pollard	Spring of 1974	Unemployed
Kathy Lee (Brown)Sutmiller	Spring of 1974	Math-Lab. SPED Teacher BIA Boarding School Concho, Oklahoma
Alice Tonemah	Spring of 1974	EPIC Graduate Student NSU Tahlequah, Oklahoma
Larry D. Williams	Spring of 1974	Elementary Teacher-Gr. 4 Elementary School Sperry, Oklahoma
Joseph Bonaparte	Fall of 1974	Tribal Health Planner Choctaw Tribal Complex Durant, Oklahoma
Elsie (Etsitty) Bosin	Fall of 1974	Physical Education Teacher BIA Teesnospos Boarding School Teesnospos, Arizona
Melinda L. Chuculate	Fall of 1974	Elementary Teacher- Gr. 3 Bennett Elementary School Broken Bow, Oklahoma
Mary C Clark	Fall of 1974	Field Supervisor "Green Thumb Program" C/o Senior Citizens Tahlequah, Oklahoma
Gary L. Colbert	Fall of 1974	Art Director Bacone Jr. College Muskogee, Oklahoma
Clarence B. Davis	Fall of 1974	Elementary Teacher & Coach Elementary School Oaks, Oklahoma
Glenn Henson, Jr.	Fall of 1974	Indian Resource Teacher West Jr. High School Rt. 1, Box 151 Roosevelt, Utah 84066
Janice K. (Wilson) Henson	Fall of 1974	Remedial Reading Teacher Belfonte Elementary School Muldrow, Oklahoma
Mary Beth Lockett	Fall of 1974	Elementary Teacher-Gr. 3 Bennett Elementary School Broken Bow, Oklahoma
Penni G. Lovelace	Fall of 1974	Reading Specialist High School Jenks, Oklahoma

Jimmy D. Martin	Fall of 1974	Unemployed
Vickie D. McCarter	Fall of 1974	SPED (Speech & Hearing) Teacher Watts School Watts, Oklahoma
Debra L. Nelson	Fall of 1974	7th & 9th Math Teacher Jr. High School Stilwell, Oklahoma
Deborah S. Nichols	Fall of 1974	Cooperative Counselor Cherokee Co. Elem. Schools Tahlequah, Oklahoma
Patricia (Norton) Reeder	Fall of 1974	1st/2nd Grade Teacher Dahlonegah Elementary School Stilwell, Oklahoma
Susie A. Thompson	Fall of 1974	8th & 9th English Teacher Jr. High School Stilwell, Oklahoma
Kathy (Southerland) Walters	Fall of 1974	Indian Counselor Jr. High School Muldrow, Oklahoma
Peggy S. West	Fall of 1974	Elementary Teacher Chinle Public School Chinle, Arizona
Gladys N. Wickliffe	Fall of 1974	2nd Grade Teacher Elementary School Foyil, Oklahoma
Jerry D. Wilson	Fall of 1974	Mgr, Fast Food Store No. 1 Tulsa Tulsa, Oklahoma
Susan N.(Wofford) Ballinger	Spring of 1975	Business Department Vo-Tech School Sapulpa, Oklahoma
Chris (Kyle) Botts	Spring of 1975	Remedial Math Teacher Elementary School Hulbert, Oklahoma
Larry Joe Cahwee	Spring of 1975	P.E. & Soc. Studies Teacher High School Coyle, Oklahoma
Earleen K. (Lee) Cochran	Spring of 1975	Counselor Carl Albert Jr. College Poteau, Oklahoma
Lahoma (Hicks) Donnell	Spring of 1975	Realty Clerk-Steno. Concho Agency El Reno, Oklahoma

Nicholas G. Durant	Spring of 1975	P.E. & Soc. Studies (H.S.) BIA Boarding School Cherokee Agency Cherokee, N. C.
Rebecca S. Flud	Spring of 1975	Payroll Clerk Creek Nation Housing Okmulgee, Oklahoma
Shirley D. (Argroves) Kelly	Spring of 1975	Director, Cherokee Nation C.E.T.A. Program Tahlequah, Oklahoma
Ingrid Sue Martin	Spring of 1975	SPED (LD) Teacher Middle School Jay, Oklahoma
Edna Joanne O'Neal	Spring of 1975	SPED (LD) Teacher Watts School Watts, Oklahoma
Betty Sue Page	Spring of 1975	SPED (EMH) Teacher Maple Park Elementary School Wagoner, Oklahoma
Ruth Ann Settlemyre	Spring of 1975	Unemployed
Anita G. Smith	Spring of 1975	Secretary, District Attorney's Office (CETA) Tahlequah, Oklahoma
Dennis L. Snell	Spring of 1975	Counselor, "Talking Leaves" Job Corps Center, Cherokee Nation Tahlequah, Oklahoma
Lawaunta Soap	Spring of 1975	P.E. Teacher, BIA Kayenta Bdg. School Kayenta, Arizona
Ardith Faye Taylor	Spring of 1975	Kindergarten Teacher Tenkiller Elementary School Welling, Oklahoma
Bobby G. Tidwell	Spring of 1975	Metals Engineer Franklin Electric Siloam Springs, Arkansas
Mary Sue Tyon	Spring of 1975	Residential Advisor I "Talking Leaves" Job Corps Center, Cherokee Nation, NSU Tahlequah, Oklahoma
Okah Nelina Williams	Spring of 1975	Unemployed

Sandra G. Addington	Fall of 1975	SPED (LD) Teacher Keys Elementary School Tahlequah, Oklahoma
Charles R. Colbert	Fall of 1975	Tutorial Program & Coaching BIA, Pheonix Indian H.S. Pheonix, Arizona
Linda Sue Deason	Fall of 1975	Kn/2nd Grade Teacher Dell Elementary School Stilwell, Oklahoma
Dianna Kaye Hammons	Fall of 1975	Gr. 2 Teacher Tenkiller Elementary School Welling, Oklahoma
Janice Sue Hanlin	Fall of 1975	Remedial Math Teacher High School Stilwell, Oklahoma
Charles A. Maupin	Fall of 1975	Counselor, "Talking Leaves" Job Corps Center, Cherokee Nation, NSU Tahlequah, Oklahoma
Marcella Morton	Fall of 1975	Elementary Teacher-Gr. 6 Mosely Elementary School Siloam Springs, Arkansas
Janus Rae Muskrat	Fall of 1975	Elementary Teacher, Gr. 2 Maryetta Elementary School Stilwell, Oklahoma
Vivian Loretta Price	Fall of 1975	Coordinator, Home-School Counseling-High School Stilwell, Oklahoma
Fred C. Shunkamolah	Fall of 1975	Grad. Student, Edu. Adm. Supr. N.M. State University Las Cruces, N. M.
Gloria E. Sly	Fall of 1975	EPIC Graduate Student NSU Tahlequah, Oklahoma
Jones S. Barnett	Spring of 1976	Driver Education Instructor "Talking Leaves" Job Corp Center, Cherokee Nation, NSU Tahlequah, Oklahoma
Pamela L. Brown	Spring of 1976	2nd Grade Teacher [illegible] Tahlequah, Oklahoma

Terrye (Jefferson) Dobbins	Spring of 1976	P.E. Teacher Sky Ranch Elementary School Moore, Oklahoma
Sally Ann Durant	Spring of 1976	1st Grade Teacher BIA Boarding School Cherokee Agency Cherokee, N.C.
Danis (Jones) Fields	Spring of 1976	Unemployed
James C. Limore	Spring of 1976	Elementary Teacher/Coach Greasy Elementary School Stilwell, Oklahoma
Veronica McClure	Spring of 1976	Counselor Cherokee Elementary School Tahlequah, Oklahoma
Curtis E. Moore	Spring of 1976	I.A. Inst., Holdenville, Okla.
Sarah L. Nelson	Spring of 1976	SPED (EMH) Teacher Elementary & H.S. Dewar, Oklahoma
Callie C. Nichols	Spring of 1976	8th Gr. Teacher Elementary School Marble City, Oklahoma
Delois J. Patterson	Spring of 1976	7th & 8th Gr. Science Teacher Junior High School Stilwell, Oklahoma
Cornell Pewewardy	Spring of 1976	Remedial Reading Teacher Elementary School Inola, Oklahoma
Patricia M. Roach	Spring of 1976	BIA English Teacher Chilocco Indian School Chilocco, Oklahoma
Betty Jane Sheppard	Spring of 1976	Library Technician, BIA Institute of American Art Santa Fe, New Mexico
Carolyn A. Shipley	Spring of 1976	Teacher Elemen[illegible] School Haskel[illegible]klahoma
Nelson Wolfe	Spring of 1976	Credit Officer, BIA Horton Agency Horton, Kansas
Pamela K. Workman	Spring of 1976	Lang. Arts & Soc. Studies Teacher Middle School Mounds, Oklahoma
Lulu Mae Proctor	Spring of 1976	Elementary Remedial Reading Tchr. Inola, Oklahoma

Carol Ann Young	Spring of 1976	BIA Indian Counselor NSU Tahlequah, Oklahoma
Bonita Casady	Fall of 1976	Secretary Williams Company Tulsa, Oklahoma
Jessie R. Clark	Fall of 1976	English Teacher High School Depew, Oklahoma
Marion Cochran	Fall of 1976	Librarian, Navajo Research & Statistics Center Window Rock, Arizona
Rita J. Garner	Fall of 1976	SPED Teacher Junior High School Tahlequah, Oklahoma
Pamela Harper	Fall of 1976	Elementary Teacher, Gr. 2 Elementary School Salina, Oklahoma
Lois H. Hart	Fall of 1976	Elementary Teacher- Gr. 1 Elementary School Vian, Oklahoma
Lila J. Hays	Fall of 1976	EPIC Graduate Student NSU Tahlequah, Oklahoma
Bernice Kelly	Fall of 1976	SPED (LD) Teacher Elementary School Peggs, Oklahoma
Shirley Martinson	Fall of 1976	Secretary, Indian Section Oklahoma Dept. of Education Oklahoma City, Oklahoma
Lynette Moore	Fall of 1976	Social Worker, DISRS Tulsa, Oklahoma
Eldon Leo Anderson	Spring of 1977	General Science Teacher Junior High School Locust Grove, Oklahoma
Charles Ray Arnall	Spring of 1977	5th & 6th Grade Teacher Norwood Elementary School Hulbert, Oklahoma
Patricia (Hatfield) Calloway	Spring of 1977	Unemployed
Wesley Lee Cox, Jr.	Spring of 1977	Elementary Teacher & Coach Christie Elementary School Westville, Oklahoma

Robert Bruce Craig	Spring of 1977	P.E. Teacher & Coach Cleveland Public School Cleveland, Oklahoma
Carolyn Jean Croley	Spring of 1977	Unemployed
Will H. Cummings	Spring of 1977	Business Teacher High School Henryetta, Oklahoma
Bill J. Fargo	Spring of 1977	BIA, Alaskan Service Cooperative Counselor
Frances C. Fargo	Spring of 1977	Director, SPED Programs BIA, Alaskan Service
Shirley (Bia) Fields	Spring of 1977	Unemployed
Gerald L. Fishinghawk	Spring of 1977	Elementary Teacher & Coach Rocky Mountain Elem. School Stilwell, Oklahoma
Helen Gelene Fixico	Spring of 1977	Jr. Hi Teacher Will Rogers Jr. Hi Miami, Okla.
Angela Aglen Henson	Spring 1977	SPED(Speech & Hearing) Teacher Middle School Warner, Okla.
William R. Homan	Spring 1977	Grad. Student School of Optometry atudent Memphis, Tenn.
Susie C. Hummingbird	Spring 1977	Teacher, Cherokee Nation Academy Stilwell, Okla.
Betty Jean Johnson	Spring 1977	1st Gr. Teacher Briggs Elementary School Tahlequah, Okla.
Kenneth Earl Limore	Spring 1977	Math Instructoe, Talking Leaves" Job Corps, Cherokee Nation NSU, Tahlequah, Okla.
Linda Ann Matheny	Spring 1977	Communication Skills Teacher Grs. 4 & 5 Vandiver Elementary Broken Arrow, Okla.
Dianna R. Mayfield	Spring 1977	Adm. Assit. for Central "Talking Leaves" Job Corps Center, (NSU), Cherokee Nation, Tahlequah, Okla.

Ledtkey R. McIntosh	Spring 1977	Hist./Soc.Studies/Coach Jr. & Hi School Dewar, Okla.
Regina Lee McLemore	Spring 1977	7th & 8th Grade English Teacher Jr. High School Stilwell, Okla.
Paul Dewayne Perry	Spring 1977	Indian Culture Teaching Pocola Elementary School Ft. Smith, Ark.
Barbara Jean Powell	Spring 1977	Ass't Child Development Specialist Cherokee County Guidance Center 914 S. College Tahlequah, Okla.
Betty Sue Stewart	Spring 1977	Community Education Specialist Creek Nation. Okmulgee, Okla.
Rodney Wayne Summer	Spring 1977	O.U. Graduate Student Norman, Okla.
Rick Wayne Thayer	Spring 1977	Grad Student S W Baptist Seminary Ft. Worth, Texas
Cheryl Robin Thompson	Spring 1977	Indian History Teacher Jr. High & High School Chelsea, Okla.
Ronald Tso	Spring 1977	Community Health Director Navajo Tribe Chinle, AZ
Flora R. Bridges	Fall of 1977	Remedial Reading Teacher Elementary School Locust Grove, Oklahoma
Joe Byrd	Fall of 1977	EPIC Graduate Student NSU Tahlequah, Oklahoma
Susan D. Cramer	Fall of 1977	EPIC Graduate Student NSU Tahlequah, Oklahoma
Teresa E. Culie	Fall of 1977	Housewife
Marguerite Hadley	Fall of 1977	Graduate Student East Central State University Ada, Oklahoma

Sally R. Harp	Fall of 1977	EPIC Graduate Student NSU Tahlequah, Oklahoma
Billy D. Hastings	Fall of 1977	History Teacher High School Seminole, Oklahoma
Nancy I. James	Fall of 1977	Kindergarten Teacher Elementary School Panama, Oklahoma
Janice C. (Krank) Hastings	Fall of 1977	SPLD (LD) Teacher Middle School Seminole, Oklahoma
Mary B. Osburn	Fall of 1977	Tutoring 1st Gr. Students Liberty Elem. School Sallisaw, Oklahoma
William L. Pekah	Fall of 1977	Industrial Arts Instructor Middle School Beggs, Oklahoma
Anita Jo Phillips	Fall of 1977	Elementary Teacher Elementary School Watts, Oklahoma
Kathy Ann Rogers	Fall of 1977	EPIC Graduate Student NSU Tahlequah, Oklahoma
Carol S. Swimmer	Fall of 1977	Graduate Student NSU Tahlequah, Oklahoma
Maxine L. Wilson	Fall of 1977	P.E. Teacher (Girls) Briggs Elementary School Tahlequah, Oklahoma
Wathene Young	Fall of 1977	Counselor Supervisor EPIC Program-NSU Tahlequah, Oklahoma
Judy Ann (Corn) Asbill	Spring of 1978	Elementary Teacher Elementary School Haskell, Oklahoma
Herman Augerhole	Spring of 1978	Salesman Tahlequah Lumber Co. Tahlequah, Oklahoma
Rita J. Bunch	Spring of 1978	Graduate Student NSU Tahlequah, Oklahoma

Evelyn Doss	Spring of 1978	Elementary Teacher Briggs Elementary School Tahlequah, Oklahoma
Edith Fourkiller	Spring of 1978	Graduate Student NSU Tahlequah, Oklahoma
Walter J. Frazier	Spring of 1978	Construction Worker Muskogee, Oklahoma
Leon F. Oosahwe	Spring of 1978	P.E. Instructor & Coach Chinle Public School Chinle, Arizona
Judy Ann Pritchett	Spring of 1978	Elementary Teacher Kenwood Elementary School Salina, Oklahoma
Thomas L. Proctor	Spring of 1978	Art Instructor (K-12) Big Cabin, Oklahoma
Shirley Reed	Spring of 1978	Elementary Teacher Elementary School Moffet, Oklahoma
Vicky A. Robinson	Spring of 1978	EPIC Graduate Student NSU Tahlequah, Oklahoma
Janet Shunkamolah	Spring of 1978	SPED (EMH) Teacher Home Start Program Shawnee St. Gregory's College Anadarko, Oklahoma
Jacob D. Tanner	Spring of 1978	P.E. Elem. & H.S. Ass't Football & Wrestling Coach Sperry, Oklahoma
Sandra Jo Tanner	Spring of 1978	Elementary Teacher, Gr. 5 Washington Elementary Collinsville, Oklahoma

Table I.a

OCCUPATIONAL ANALYSIS
EDUCATION PROFESSIONALS FOR INDIAN CHILDREN
GRADUATES FROM SPRING '74 TO SPRING '78

OCCUPATIONAL CLASSIFICATION	NUMBER
1. Elementary Education	58
2. Secondary Education	42
3. School Counselor	7
4. Athletic Director	1
5. Tribal Work	11
6. Management Specialist	1
7. Program Specialist	1
8. Credit Officer	1
9. Child Development Specialist Assistant	1
10. Social Worker	3
11. Principal	1
12. Construction Work	1
13. Graduate Student	8
14. Graduate Student, EPIC Program	8
15. Administrative Assistant	1
16. Assemblyman	1
17. Assistant Manager	1
18. Metals Engineer	1
19. Field Service Representative	1
20. Salesman	1
21. Secretary-Clerk	5
22. Librarian	2
23. Housewife	1
24. Unemployed	9
TOTAL	167

Table II

EDUCATION PROFESSIONALS FOR INDIAN CHILDREN
Participant Follow-up Data Analysis

Item	SA	A	D	SD
1. I know more about Indian Heritage because of the program.	47	40	1	0
2. Skills learned in developing Indian Teaching Units were helpful.	45	39	3	1
3. Because of the program, I am a better teacher of Indian children.	47	39	2	0
4. Participants of this program were Indian.	41	43	4	0
5. I developed skills and techniques for teaching Indian students.	43	43	2	0
6. I was successful in learning to develop Indian Teaching Units.	46	40	2	0
7. The program was Indian oriented.	58	30	0	0
8. Programs specifically for Indian teachers is beneficial and needed.	75	12	1	0
*9. Curriculum development activities were a waste of time.	1	2	27	58*
10. I was informed of available employment opportunities by the EPIC staff.	34	45	7	2
11. Activities of the program were clearly explained.	42	44	2	0
*12. Schools used as teaching centers were not adequate training facilities.	1	2	36	49*
13. My supervising teacher was helpful.	52	31	4	1
14. Seminars on Indian Education provided me with pertinent information.	45	39	4	0
15. Program staff performed responsibilities well.	57	30	1	0
16. Indian blood quantum should be a factor in selecting participants.	47	27	7	7
17. Material in the Indian Teacher Resource Center was helpful to me.	39	42	6	1
*18. I did not learn very much while participating in this program.	0	1	15	72*
19. As a result of the program I am more involved in Indian Education.	49	34	4	1
20. The program was generally effective.	[illegible]	19	1	0

N = 88 (64% return)
SA = Strongly Agree   A = Agree   D = Disagree   SD = Strongly Disagree

* Stated in negative. Evaluations of SD and D are positive toward program.

Table III

PARTICIPANT EFFECTIVENESS FOLLOWUP
(Employer Evaluation of Participant)

SECTION B (GENERAL CHARACTERISTICS) Completed by employers for both teaching and non-teaching positions.

Characteristic	Rating 1	2	3	4
1. Personality	28	36	3	0
2. Personal Appearance	31	30	4	0
3. Cooperation	37	14	1	0
4. Emotional Health	27	22	2	0
5. Enthusiasm for Work	25	20	3	0
6. Confidence	22	24	4	0
7. Responsibility	28	22	1	0
8. General Educational Background	13	33	3	0
9. Command of the English Language	13	33	3	0
GENERAL RATING	24	25	1	0

SECTION C (TEACHING EFFECTIVENESS) Completed on participants who are currently teaching.

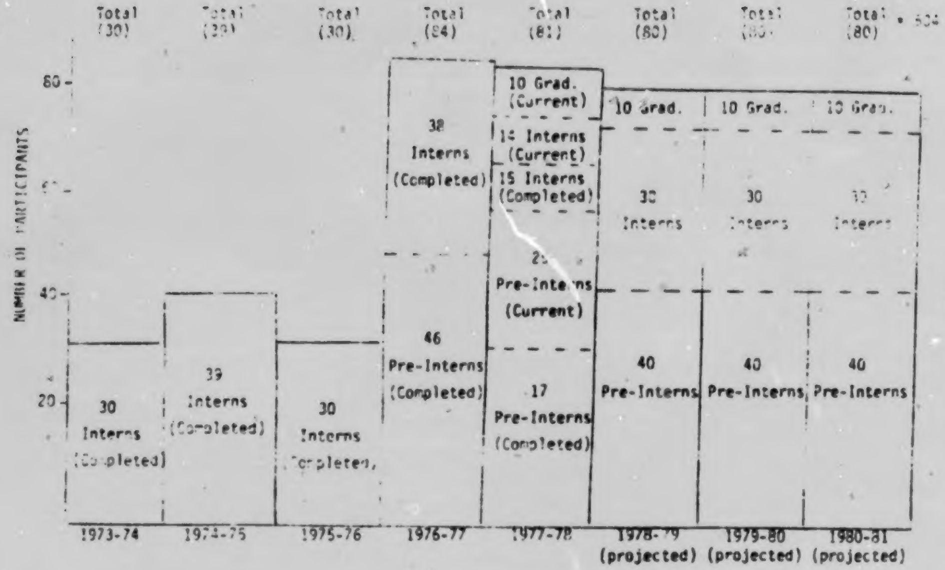
Characteristic	1	2	3	4
10. Knowledge of subject matter	19	32	3	0
11. Appreciation for Indian culture	22	26	2	0
12. Respect for children	23	26	3	0
13. Effective as teacher of Indian culture	18	23	4	0
14. Rapport with all children	25	26	1	0
15. Utilizes Indian materials in teaching	14	23	8	0
16. Treats children equally	30	20	2	0
17. Prepares well for class	20	28	0	2
18. Provides for Individual differences	17	31	4	0
19. Motivates Indian children	16	30	2	0
20. Sensitive toward children	19	29	2	0
21. Controls children well	16	27	4	0
22. Good evaluation methods	16	25	5	0
GENERAL RATING	15	29	1	0

SECTION D (EFFECTIVENESS IN WORKING WITH TRIBES AND ORGANIZATIONS) Completed on participants working with tribes or Indian organizations.

Characteristic	1	2	3	4
23. Works effectively with Indian people	6	4	0	0
24. Empathetic with problems of Indian people	7	2	1	0
25. Understands tribal or organizational purposes	7	2	1	0
26. Is task oriented	7	2	1	0
27. Participates in in-service training activities	6	3	1	0
28. In harmony with concept of Indian self-determination	6	3	1	0
29. Interested in national welfare of Indian people	8	2	0	0
30. Effective in planning	5	4	1	0
31. Committed to career working with Indian people	6	3	0	0
32. Knowledge of political process	6	3	0	0
GENERAL RATING	6	3	1	0

N=67 (63% return on 106 questionnaires mailed)

EPIC EIGHT YEAR SCHEDULE



Teaching Degrees earned thru Fall 1977 =152
Teaching Degrees projected thru Spring 1981 =256
Graduate Degrees in progress = 10

Graduate Degrees projected thru 1981 = 40
Total Degrees projected thru 1981 =296
(Baccalaureate and Master's)

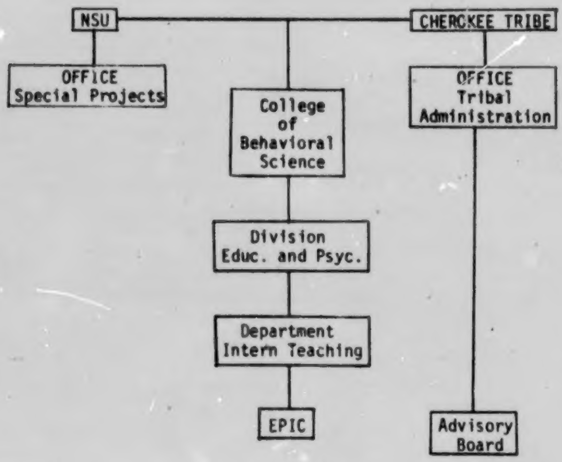
PROJECT AREA NEEDS ASSESSMENT SURVEY

School	Number Teachers	Indian Teachers	Number Counselors	Indian Counselors	Need for Ind. Teach. Yes	Need for Ind. Teach. No	Need for Ind. Couns. Yes	Need for Ind. Couns. No	Need for Ind. Adms. Yes	Need for Ind. Adms. No
Adair	36	2	1	0	x		x		x	
Belfonte	12	0	3	0	x		x		x	
Bell	13	4	0	0	x		x		x	
Briggs	22	2	0	0	x		x			x
Cave Springs	24	1	1	1	x		x		x	
Chouteau	35	1	0	0	x		x		x	
Christie	7	1	0	0		x	x			x
Grandview	15	2	0	0		x		x		x
Grove	68	6	1	1	x		x		x	
Hulbert	42	3	2	0	x		x		x	
Keys	18	2	0	0		x		x		x
Liberty	13	5	0	0		x		x		x
Lost City	13	4	0	0	x		x		x	
Marble City	13	1	0	0		x	x			x
Maryetta	14	3	0	0	x		x			x
Muldrow	75	1	2	0	x		x		x	
Osage	5	0	0	0	x		x			x
Peggs	11	1	0	0	x		x		x	
Rocky Mtn.	8	0	0	0	x		x		x	
Salina	50	4	3	0	x		x		x	
Shady Grove	7	0	0	0	x		x		x	
Skelly	7	2	0	0		x		x		x
Spavinaw	8	0	0	0	x		x		x	
Tenkiller	13	3	0	0	x		x		x	
Vian	58	0	3	1	x		x		x	
Watts	22	12	0	0	x		x		x	
Wickliffe	4	0	0	0		x	x			x
Woddall	9	0	0	0	x		x		x	
Zion	12	1	0	0	x			x	x	
Totals	634	61 (10%)	16	2	22	7	24	5	19	10

Notes: Of the 43 schools surveyed, 29 responded. All responding schools have Indian enrollments ranging from 18 to 98 percent with an average of 57 percent. All schools are located in EPIC's immediate service area. While all schools did not respond, results are indicative of conditions and feelings existing throughout Eastern Oklahoma.

An advisory committee has been established to plan and supervise the program. This is an all-Indian committee consisting of representatives from Indian communities (parents), schools used as training centers, the Cherokee Tribe, the Creek Tribe, B.I.A. schools, Indian counseling at NSU, and two Indian college students participating in the program.

LINE OF AUTHORITY


NSU
CHEROKEE TRIBE
OFFICE Special Projects
College of Behavioral Science
OFFICE Tribal Administration
Division Educ. and Psyc.
Department Intern Teaching
EPIC
Advisory Board

ADVISORY BOARD

Name	Tribe	Representing	Employment
*Cecil Shipp	Seminole	BIA Schools	Principal, Sequoyah H.S.
Shirley Baskins	Cherokee	Rural Schools	English Teacher
**Dennis Snell	Cherokee	Cherokee Tribe	Cherokee Nation
Carol Young	Kiowa-Pawnee	Indian Counseling	BIA Counselor (NSU)
Leroy Wolf	Cherokee	Parents	Sequoyah H.S., Fac. Mngmt.
Goodlow Proctor	Cherokee	Cherokee Tribe	Indian Health Service
Alice Tonemah	Kiowa	EPIC Grad. Students	Graduate Student
Janet Spencer	Assinaboine-Sioux	EPIC Interns	NSU Student

*Chairman **Vice Chairman

NEOSU Receives Education Award

Northeastern has received the Distinguished Achievement Award presented by the American Association of Colleges for Teachers Education, (AACTE), headquartered in Washington, D. C.

Joel L. Burdin, associate director of the association, said this award is the highest honor given in the nation for excellence in teacher education.

More than 860 collegiate institutions in the 50 states, Guam and Puerto Rico are members of AACTE.

Northeastern received a Merit Award for excellence in teacher education in 1970. It was the first and only one ever presented to an Oklahoma institution.

Northeastern President Elwin Fite said the university was selected for its Indian intern teaching program.

The program, Educational Professionals for Indian Children (EPIC), is co-directed by Dr. Fount Holland and William Thorne. Dr. Al Williams serves as a special consultant.

EPIC consists of three separate programs—a pre intern teaching program, Indian intern teacher training program and a graduate program with training in school guidance and administration.

Senior students who definitely plan to enter the field of Indian education participate in the Indian intern teachers training program for 16 weeks in a school with a predominate Indian enrollment.

For those students desiring to do graduate work in education, EPIC provides a graduate program with training in School Guidance and Administration.

Holland said the pre-interns and senior interns receive field experience in Indian dominant public schools and Bureau of Indian Schools located within a 60-mile radius of the university.

"Since 1973, 138 students have successfully completed the Intern Teaching program and have completed requirements for teacher certification," Holland said.

Of those graduating from the program, 94 percent have received initial employment with 78 percent of them working in some aspect of Indian education in public or BIA schools or ith tribes and Indian organizations.

The award will be presented to university officials at a ceremony Feb. 21 at the Conrad Hilton in Washington, D. C.

"We believe the award will prove to be an incentive to even greater efforts and insight for our faculty to see potentials of the University for providing educational services."

"Receiving the Distinguished Achievement Award from the American Association of Colleges for Teacher Education is a great honor for the University and the State," said Fite.

"We are particularly proud that it will be given for a program involving Indian Education since the heritage of the University is so closely linked with the Cherokee Nation.

Ms. YOUNG. I am with the teacher training program at Northeastern University. We train 30 teachers a year and 10 counselors and administrators. They are getting master's degrees. We serve a service area in four counties in the Cherokee Nation.

I would like to make some points about teacher training. We have 20 programs funded for next year in teacher training. We have $4 million out of $52 million going into teacher training. This is a very small amount of money if you look at the large returns on that investment.

In our program alone, I would like to give you the full statistics. We have graduated as of this spring, 197 Indian teachers. We graduated 20 Indian counselors. Seventy-eight percent of those people have gone to work for Indian programs for teaching or for working with Indian children. Forty-two percent of them have gone back to work in our four-county area as counselors. We feel as though it is a big investment in our area.

Some of the other tangible results from teacher training. Indian parents are getting involved because Indian counselors and teachers are there. In the past Indian parents have not been involved in the education of their children. Indian people are now teaching their children. The majority of our participants are from the local community. They are going back out into those local schools and serving as teachers. This is very important. It is something that did not exist 5 years ago. We have continuous funding through 1981.

I want to emphasize the need that has not be met in the communities. Title IV is just now taking effect. Parents are just now giving title IV credibility. They are just now beginning to go to the school board, visiting the schools, hiring staff, making recommendations designing programs for the students. It has been token participation up to this time. It is so important that we continue to grant more moneys to teacher training programs, because eventually these Federal funds will be gone and teacher training is providing a resource that will be there for years to come. We are getting a very small portion of the money.

Also, I would like to speak to the issue of the fellowships. Two hundred fellowships are funded. This, of course, is another way we are training Indian educators, engineers, doctors. More than anything, these are lasting beneficial results from Indian education and very little moneys are being put into these categories.

Thank you for your time.

Mr. KILDEE. Thank you very much for your testimony.

Ms. Hendricks, you may proceed.

[The prepared statement of Ms. Hendricks follows:]

PREPARED STATEMENT OF SHIRLEY R. HENDRICKS, COORDINATOR, LOS ANGELES UNIFIED SCHOOL DISTRICT, INDIAN EDUCATION PROGRAM, LOS ANGELES, CALIF.

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

Thank you for allowing me to appear before this committee today. As a representative of the Los Angeles Unified School District, Indian Education Program and a representative for our Indian students and their parents, I appreciate the opportunity to express to you our views and concerns.

I shall attempt to provide you with reactions to the proposed rules, describe programming problems as we perceive them in Los Angeles Unified School District and share with you some of our efforts to insure positive results for Indian students participating in the Indian Education Program in the Los Angeles Unified School District.

Statements will pertain only to that portion of the proposed rules governing and affecting Part A projects for LEA grantees and the provision for regional information centers.

I would like to begin by commending the writers of the proposed rules for the simpler language used. It is my opinion that if the LEAs are to implement and maintain programs, and the parent committees are to oversee, monitor and participate in them, then we must be able to read and understand the rules. This has been difficult in the past and we appreciate the use of this new, simpler language form.

There are some definite strengths in the pr[illegible] rules which affect Part A. Those strengths are:

1. Inclusion of a much-needed clarification of the selection process for the Parent Committee (186a.13)
2. The specific inclusion in the definition of "parents", of persons, other than mother or father, who function as parents to the child (186.3 (2)(i)
3. The provision for a person's continued membership on the Parent Committee (186a.13)
    a. This is important because many parent committees would find it difficult to maintain members if membership terms were limited.
    b. A possible drawback would be the development of static parent committees due to no turnover in the membership. However, this can be specifically addressed in parent committee by-laws allowing for local needs and concerns.
4. The inclusion of clarified responsibilities of the LEA (186a.51)

5. The inclusion of clarified responsibilities for the Parent Committee (186a.52)
6. The inclusion of more realistic examples of authorized program activities (186a.52)
7. Concise clarification of and strengthening of project design guidelines and expectations (186a.32)

It is encouraging to note these changes and additions. Along with the recognition of these strengths, however it is also important to point out concerns. These concerns are not new and have not been alleviated by the proposed rules.

The first concern I wish to address is that of the entitlement formula (186a.43). In a large program, the budget is usually adequate for appropriate program staffing to insure that LEA responsibilities are met. This may not be the case with smaller programs. It has been my experience from working with persons in other districts, that often the smaller projects are given a "back seat" and never fully get off the ground because the responsibilities of the LEA to this program are assigned to a person who already has full-time responsibilities. It then becomes a part time, supplemental program from the standpoint of its administration, yet the managerial duties and program goals are still expected as if full-time administration were present.

Perhaps consideration needs to be given to "basic-plus" entitlements for smaller projects whereby a base amount is awarded to programs according to size, plus a per student amount. This could provide for specific staffing where needed so that proper program attention could be afforded.

My next concern is with provisions for the demonstration projects. Such projects that lead to the improvement of educational opportunities of Indian children can play a vital function in the success of Indian Education Act programs. To my knowledge, there are few, if any, valid culturally-based tests which measure the academic achievement of Indian students or which assess an Indian student's self concept. In sharing concerns with my peers in other Indian Education programs, I find that this is a common problem. We all generally turn to district, state and/or national tests. We all recognize the need for the development of culturally-related tests and we all recognize our limitations due to time, training and funds. In examining section 186a.201, Demonstration Projects, of the proposed rules, this and other definite, vital needs are addressed. Those projects must become a reality. Otherwise, we will stay in the position of recognizing the needs but not achieving the goals.

Another concern is that of regional information centers. The Part A, Office of Indian Education staff, namely Education Program Specialists, are not sufficient in number to administer to the technical assistance needs of LEAs. Staffing should be adequate to provide for site visits more often than every other year or so. The responsibilities of the Indian Education Program Specialist are many, hindered by bureaucratic red tape, paperwork and restrictions which include limitations on travel and on the increase of staff positions. It is next to impossible to receive a site visit unless there is a crisis--and there even may be some disagreement as to the definition of "crisis". Problems can occasionally be averted and concerns alleviated with a telephone conversation. However, this is often inadequte. Not all of the involved parties participate in the conversation. It is not always practical to follow-up with a letter, again leaving the gap unattended.

The Office of Indian Education staff should be involved in more than just paperwork and program crises. Positive results are taking place in Indian Education programs. They are usually seen only at the local level. Positive program results rarely, if ever, show up on a GAO audit, and they cannot be always put to words in a required report.

Therefore, based on these facts, it is our opinion that regional information centers could provide a valuable function and service. They could fill the void of needed additional and continued technical assistance and possibly enable Office of Indian Education Program Specialists the opportunity of visiting these programs for which they are responsible on a more than "crisis" basis. With added technical assistance, crises should be minimized. As it is, Program personnel and Parent Committee representatives receive functional technical assistance from Office of Indian Education staff once a year--in the fall after school opens. Each attendee at the annual regional conference is one of hundreds, all representing their individual programs and needs, but there is little individual attention. This is not a degradation of Office of Indian Education staff. They are highly competent professionals but they are dealing with an impossible task.

The need for regional information centers is there. Office of Indian Education, I believe, supports the concept. I do not feel it is a problem that needs another study. What is needed is good planning, realistic selection of center sites and competent persons providing the services.

I mention that the annual conferences occur after the opening of school. In the instance of the upcoming Technical Assistance sessions this September, we will all be receiving new student verification forms, new deadlines and new instructions. In a large district such as Los Angeles Unified School District, This poses major difficulties. Our district has guidelines governing surveys and survey procedures. I cannot receive a new form on September 24, and be instructed to have copies reproduced, disseminated them to parents of Indian students, retrieve them, verify and count them, and send the accurate account to the state Department of Education by the November 1 deadline because this is, obviously, unrealistic. I would suggest to this committee that the timing of the Technical Assistance conferences be changed to to provide for this necessary activity prior to the opening of schools, depending on the requirements and needs of the Office of Indian Education staff and whatever department policies there are governing the timing of technical assistance conferences.

While the statements made in the preceding paragraphs may not be directly to my concerns regarding regional information centers, they do point up the need for auxilliary support for Office of Indian Education staff and Indian Education Programs.

Another, ever-present, concern is that of the definition of "Indian" for purposes of the Indian Education Act and student eligibility verfication. It is doubtful that a solution will ever be reached that is accepted by all who are involved in and concerned with Indian Education. The currect definition, however is inadequate. It is difficult to deal with unless one assumes that all persons involved clearly understand it and I do not believe this is so.

The definition of "Indian" contains 3 parts. "Indian" means any individual who is--

> (1) A member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized by the State in which they reside, or a descendant, in the first or second degree, of any such member;
>
> (2) Considered by the Secretary of the Interior to be an Indian for any purpose, or
>
> (3) An Eskimo or Aleut or other Alaskan Native.
>
> (Indian Education Act, sec. 453(a), 20 U.S.C. 1221h(a))

Part 3 is relatively clear. Part 1 seems to create great problems, at least in the minds of those with whom I work and am associated. Are we to understand that parents fully understand the meaning of the word, "member" as used in the first paragraph of the definition? Is it the responsibility of the LEA and its representatives to define this term? Is it the responsibility of the Office of Indian Education staff to provide this information for all LEAs? As simple as this definition is, it creates problems because it is not definitive. I would suggest that if this definition cannot be more precise, then policy regarding its interpretation; instructions to parents including specific informational questions and required responses and corresponding instructions regarding interpretation for the LEA need to be developed by the Office of Indian Education.

With regard to student eligibility verification, in Los Angeles Unified School District, the HEW 506 forms are verified by our Parent Committee. This means representatives examine the forms for completeness of information and question, if necessary, and research these tribal and group names with which they are not familiar. Again, a big assumption. They must assume that parents clearly understand the definition and that the information provided is accurate. Their other course of action is to personally canvass all parents declaring Indian children. Our official verification count for the 1979-80 fiscal year is 3909. Our Parent Committee membership averages 20. This is a monumental task for those 20 persons.

I have only scratched the surface with our concerns. We deal daily, at the local level, with these concerns and the problems created by them, but we have not previously been in a position to assist in their solutions. So, I strongly urge you to deal specifically with the definition of "Indian". There must be an agreeable strengthing of this definition.

I urge you to provide the means for additional needed staffing for technical assistance and more frequent on-site visits and evaluations.

You must consider the need for the effect of regional information centers. Realize that the proposed rules provide for such centers and there is adequate supporting data from the "field". Yet, no action has been taken, to my knowledge, to provide for the centers.

The proposed rules do not eliminate all of the problems and concerns. They do not even address some of them. The rules need to be expanded to allow for specific policy development by the staff of the Office of Indian Education.

In conclusion, let me provide some general information regarding the Los Angeles Unified School District and its Indian Education Program.

Los Angeles Unified School District is a large urban district. It covers more than 400 square miles. It includes more than 600 schools in its boundaries. There are approximately 55,000 teachers and approximately 500,000 students. This past school year, the Indian Education Program has provided services to nearly 3000 Indian students in the District.

For the most part, the Indian Education Program functions smoothly within the confines of the District. However, one cannot overlook the problems which are inevitable in such a large setting. We do become embroiled in conflicts regarding District policy vs State Education Code vs Indian Education Act rules and regulations. We were even caught up in the perils of the Jarvis-Gann legislation.

Our Parent Committee has had by-laws since 1974--our first program year. We have used student verification forms since 1975--1 year prior to the issuance of the HEW 506 form. Our Parent Committee has been involved in the hiring of program personnel since the first program year, and our Parent Committee has always been involved in the selection of an independent evaluator and does provide input into and approval of the evaluation procedures.

The Indian Education Program has helped provide substantial awareness of the need to include Indian culture in the multicultural planning and curriculum of the District. We maintain lose contact with District personnel who make decisions regarding the selection of books, films and other curriculum materials involving Indian culture.

In addition to general program services which meet the special educational and culturally related needs of Indian students, special activities such as our annual Indian student art show have now made a mark on the District.

Education is a vital process, and quality educational opportunities are needed for all children. Some receive them; many do not. The Indian Education Act provides a way for those of us working with Indian students to assure additional quality in their educational opportunities.

Mr. Chairman, Members of the Committee, thank you very much.

STATEMENT OF SHIRLEY HENDRICKS, COORDINATOR, INDIAN EDUCATION PROGRAMS, LOS ANGELES UNIFIED SCHOOL DISTRICT

Ms. **Hendricks**. My name is Shirley Hendricks.

Mr. Chairman, members and staff, I would like to thank you for being here today and sharing some of my concerns of parents and students with title IV programing. My comments will sound very much like a record of all the comments you have already heard this morning.

I would like to begin by saying that one of the things about the new proposed rules and regulations which pleases me very much is the fact it is written in a language I can understand. I work very closely in servicing Indian parents and Indian students in the district regarding what the regulations are; what their responsibilities are; what my responsibility is; and that of the school district. I find it very difficult when I have literature to read, consume, and summarize, I find it difficult to then give it back to the people who need it, if I have difficulty understanding it in the first place. So I would like to commend whoever the writers were of the proposed regulations in making my job a little bit easier in that respect. I am also happy to see in those proposed rules and regulations greater detail in the outline of the responsibilities of the parent committee, greater detail in the responsibilities of the LEA.

I sit on a lot of fences as far as the program is concerned. I am a mother. I am a teacher. I am the program administrator. I am a parent. I have been with the public schools long enough to understand what parent concerns are when programs are new, when parents are becoming involved in the school for the first time and are not sure really whether the institution is giving them the correct information, is allowing them all of the responsibilities that they should have.

So I am glad to see that those delineations are made a little bit clearer.

My first concern that I want to address myself to is not particularly a concern that involves my school district but one that involves the smaller school district.

I am in a position in Los Angeles to work closely with a number of other type programs in the surrounding counties. We have in the past year been meeting once a month to discuss program concerns, to discuss program progress, et cetera, and the concern that we have all shared deals with the smaller programs, the smaller districts which have programs.

If you are a large district and you have, let's say, 2,000 Indian students, your money base is larger to work with, and if you are paying a tutor to tutor students and you have that tutor for *x* number of hours a day, regardless of whether he or she is tutoring 10 or 110 students you are getting your money's worth and can provide a full time tutor.

If you are a small school district with limited funds, your services are limited even though their tutoring needs or cultural needs are the same.

So the suggestion at that point is that perhaps whether it comes as an inclusion in the rules and regulations or as a policy recommendation, or however it has to happen, that perhaps the entitlement for smaller districts be given some consideration for a base funding to begin with and then a per child entitlement after that, thereby giving them, the smaller districts, more money to work with in order to do the job that they really need to do.

I also have concerns about the regional information center. The concerns there are many. One does involve the need for additional adequate technical assistance, additional input, to "get-out-ability" which is not in the dictionary but the "get-out-ability" of the staff people in Washington or staff people when we all have questions and concerns about the program, when we need attention.

In my written statement you will read that I have commented about the crisis factor for getting in touch with OIE staff. I have had an occasion recently to call the Office of Indian Education and to request a site visit. I have requested site visits twice in the last four months, not because we have a crisis in the district but because there are positive things happening in the district.

There are good things happening to Indian students which are increasing their ability to survive in the academic world, increasing their ability to survive in their own Indian world, and in whatever part of the mainstream world they choose.

I understood the reasons that a site visit could not be handled at the time. If I had called, however, not if I had called, if a community member had called to express great concern over inappropriate programing, inappropriate behavior or action in some way or another, we might very easily have gotten a site visit.

I would prefer not to think that visits by anyone are made when there is a crisis. That is an experience that we are very familiar with in the Los Angeles field school district. It is very easy and impresses very quick, along with other people besides just the press, to continually expand upon the negative aspects of programs.

But within our own school district I would like to share the positive aspects of the program with people outside of the school district, with people outside of the local parent committee.

I would not hesitate at any time to request a site visit three, four, or five times a year. I would also not hesitate to give you on your site visit a variety of things from what I consider the very best aspects of the program to what I consider the very worst aspects of the program, thereby enabling you to understand the problems that we contend with.

Regional information centers might help in that respect in that that would avail us of more people to work with, more people to give continual technical assistance, more people to be on the site occasionally, to give assistance in the evaluation process.

I, too, have my concerns about the definition as it is used for Indian students who are eligible to participate in this program. I can in no way as the program coordinator be expected to know whether or not every 506 form that is submitted to the parent committee is valid and accurate.

Our parent committee consists of 20 people. The maximum provided by past rules and regulations has been 40. I don't think even that with 40 I could expect every parent on that committee to interpret that definition correctly and clearly.

We will continue to have qualms about it, to have uncertainties about it and to have heated discussions about it even, as long as each and every one of us has a different interpretation of what those words in it mean.

I do not pretend to know what qualifies membership for every tribe that is either recognized or nonrecognized in this country. I cannot expect the 20 people on our parent committee to have that knowledge either.

If it is not given to us by somebody who does have it, I, in my statements I have said that I could not see the clear-cut nor immediate solution to the problem. I don't know that there is. You have heard practically every one of us comment on that today.

I have one last thing I want to say with regard to the verification forms. I know that on September 24 when the technical assistance conference on the west coast starts, that we will be given information about the new 506 forms. I know that unless the deadlines for getting the information, having them account to the States, having them adhere, unless those deadlines have changed I am going to be very pressed in the very large metropolis of Los Angeles to meet that requirement.

Yes, it will probably cut down on our student enrollment in our district for a number of reasons. Parents in any school district in this day and age I think are probably surveyed up to and over their ears. Indian parents in our district get an extra survey or two or three or four or whatever it is because of the forms and because of our evaluation process.

I am not suggesting that the new forms are not necessary. I am agreeing that they are necessary. I am agreeing that in many instances there needs to be a strengthening of the definition.

But what I am saying is that it is very unrealistic, however, for school districts to learn the last 2 weeks of September that new forms are necessary, that material must be prepared and disseminated to parents and gotten back within the guidelines that are usually given.

Thank you very much.

Mr. KILDEE. Thank you very much for your testimony, Mrs. Young.

Ms. Young, Public Law 95-561 amended section B of title IV by allowing for the training of teachers of Indian people as opposed to teachers of Indian children. So that includes adults education teachers.

Will this significantly increase the demands for teacher training services?

Ms. YOUNG. Yes, I would think it would.

Mr. KILDEE. Have you had any indication of how it will change the program yet?

Ms. YOUNG. Not at this time.

Mr. KILDEE. So you feel moving into the area of adult education will create a greater demand for the training?

Ms. YOUNG. The tribe has the adult education program. The tribe is located there where the college is. They do have a new adult education program. In the past couple of weeks they have hired the staff. So I really can't speak to that.

Mr. KILDEE. Have you found in teacher training in general that those who tend to specialize in teaching adults, whether it be high school completion or enrichment programs, have a different emphasis or need extra materials?

Ms. YOUNG. Yes. I would think that if you are going to specialize in adult education that you would at least need to be in secondary education.

Our university is not prepared in adult education. I think only one school or two schools, two State universities, Oklahoma State University and O.U., can train adults. We have a large adult program with the tribe. They have hired one of our students as a teacher and one of our graduate students I think will be the director of the adult education program.

Mr. KILDEE. Is there any need for teacher training for non-Indian teachers, and if so, how should we accomplish this?

Ms. YOUNG. I can answer that very flatly, no, as far as moneys coming out of Indian funds. We have had plenty of non-Indians teaching Indian children. It is about time that we had Indian role models for our children. I think it is important that all teachers be sensitive to children of all ethnic groups. I think that should be part of university curriculums, human relations and awareness. But as far as Indian funds doing this, definitely not.

Mr. KILDEE. You feel the Indian role model is important?

Ms. YOUNG. It is up to us to educate our children. We have been denied this for 100 years. In the past 5 years only we have been playing this role.

Mr. KILDEE. Some people have attacked the placement of teacher training programs in non-Indian schools. They say the students and their future pupils would be better served if these funds were channeled through Indian schools or organizations.

How do you feel about this?

Ms. YOUNG. I can speak for our own organization and several of the universities that have Indian funds.

We have 900 Indian students at Northeast University. We are located at the headquarters of where the tribe is located. We have a masters in tribal management, the only one in the country. We have several other Indian programs.

Indian students tend to come to our university. I think it is the same with New Mexico, Montana and some of the other States that have Indian programs.

I am not saying the tribes cannot operate good teacher training programs. We have an all-Indian staff at Northeastern. Our students go out and serve the Indian students in public schools. We have a lot of credibility because we are a university.

I think it is important when you go out into the public schools that you have the credibility. Of course, we have a very qualified staff at Northeastern.

Mr. KILDEE. As a corollary to that, we have been talking about the definition of Indians all day. Since you indicated that this role model is very important, has that definition caused you any problems in your program?

Ms. YOUNG. For the first 5 years I was director of the Tulsa title IV program. I switched over to Northeastern last year. It used to be kind of a joke in the beginning with the teacher training program because a lot of the students going through the program didn't look Indian. So we would say we had title IV Indians.

So in the past 2 years, in fact this next group that is starting in September, 100 percent of them are at least one-half and most of them are full blood and one-third of them are bilingual.

We have not discriminated because we know that title IV says the definition is very broad and you can take a thirty-second or a sixteenth, but we are looking for role models for our children and people from the Indian community to go back into the local schools.

So it is not a problem anymore. Five years ago those local Indians that were identifiable and bilingual were not going into college. Teacher training programs have made this possible, giving those people the incentive to go back. Last semester, of the ladies and men that graduated, 40 percent of them were teacher aides.

So I think this is commendable to Indian teacher training, that they start out as aides, Johnson-O'Malley, title IV, title I, and it gives them incentive for the first time they have been in the schools. They can see they can serve a purpose.

So they have gone on to school and, you know, I don't have to tell you what excellent teachers those people are going to make. So I just can't stress the impact that teacher training is doing.

The definition of an Indian, can I state my opinion since everybody else has?

Mr. KILDEE. You sure can.

Ms. YOUNG. I served in Tulsa and we had 3,000 students with 54 different tribes. The parents committees can't do it. I would like to support her—indicating Ms. Hendricks—statement as an urban director.

With title IV funds we are serving too many children that are not having educational problems because they are Indians. They are having educational problems, but they are not Indian-related problems because they are one thirty-second, one-sixteenth and one-eighth. We should limit the definition of an Indian to at least a quarter.

I am not saying you should have to prove it. They don't have to prove it now. But if we would limit it to a quarter, then maybe we would be able to serve those children who are having educational problems because of their Indianness, not because the administrator has sent home a form and said, if you are a little bit Indian, please sign this form.

Mr. KILDEE. Someone mentioned, I think, a dual definition, either certification by the tribe or quarter blood.

Ms. YOUNG. It is much too tilted. It is not Indian. You know, I think Mr. Hinson made a reference to that. All of a sudden people are coming out of the woodwork. I didn't know half these people were Indians before. I don't think that is what the funds were meant for.

Mr. KILDEE. Of course, some of those, which, to use your phrase for discussion, are coming out of the woodwork, could fit even your definition.

Ms. YOUNG. Most definitely, a quarter. But I think that is a safer definition and that would be more consistent with BIA.

Mr. KILDEE. Thank you very much. I appreciate your testimony. We will probably be wrestling with this definition for years.

Ms. YOUNG. I am glad you have to make the decision.

Mr. KILDEE. We are trying to get all the input we can.

Ms. Hendricks, on page 3 you address a need for adequate funding for smaller projects. What size projects are you referring to and can you give us an idea what the base amount should be?

Ms. HENDRICKS. Do I have those figures at my fingertips?

Mr. KILDEE. Give us some ball park estimates. You can clarify this by letter if you wish or you may respond to that in writing if you wish.

Ms. HENDRICKS. We have a very large program with a large complement of services staff, et cetera. I agree with Miss Young. We have worked together before and we do and have worked in these things and have a larger agreement on the services that are being given and the students that are being given them.

I also work with small areas from northern California where the students are still living in Indian communities with great, strong Indian cultural backgrounds. But maybe there are only 50 students identified in that community and, let's say, if the average is $130 per student in the State of California, for 50 students that gives you a limited amount of money to, let's say, administer to the academically related needs of poor reading scores or to relate to the culturally related needs to improve a child's self image.

If that is $35,000 or $3,500, what kind of staffing does that allow you if—all right, what kind of staffing does that allow you when you know that your needs will be best met with Indian people from your community, Indian people from the nearby college or university, and I use that as an example because we tap our colleges and universities for Indian students for our teacher assistants as much as we possibly can.

If you have $35,000 or even $3,500, how many people services can you provide to students? That is basically what I am talking about.

Those figures, I don't think, give you any substance to answer your question.

Mr. KILDEE. Counsel has a question.

Mr. LOVESEE. Mr. Chairman, the committee did consider last year floors for grants, sizes for grants, or some type of sliding scale. Unfortunately, the data on which to make an informed policy decision was not there. Nor were sufficient ideas from people such as yourself who know what is happening in the actual real world as opposed to what is viewed from back here from behind a desk.

Please submit your ideas on what type of funding you are thinking about from the standpoint of dollars for a program. Is it a sliding scale situation with respect to different numbers of pupils? Should priorities be given based on some type of size?

All these things are things that were wrestled with last year but left unanswered. They are things that will resurface again in the future. So if you would, we would like to get as much information now, and, Miss Young, at the same time if you have some ideas on that based on your experience, we would appreciate it.

Ms. HENDRICKS. We have a technical assistance conference scheduled in California for nine Western States. The conference begins September 24. Whether or not anything concrete or conclusive can come out of a week's worth of technical assistance, I feel reasonably confident that given your statements and my ideas, which are not just mine, and I know our rehash for this office here, I feel confident that that problem can at least be aired and get some work done on it at that conference.

Mr. **Lovesee**. Thank you very much.

Mr. **Kildee**. I would hope that you could communicate the results of that conference. I am not sure what our abilities are in that area, but it might be helpful if someone representing this committee, staff or a member, could be at that conference, too.

I am not sure if that would be possible or not, but I do feel that very often we who stay, as the term is now, west of the Potomac, sometimes don't learn as much as if we got out and listened to what people are saying out there.

So I think either at that conference or similar conferences, it might be [illegible] for either a staff member or a committee member to attend.

Ms. **Hendricks**. The nine Western State Conference is in lovely Anaheim, Calif., and the other is in Louisiana. So you have a choice.

Mr. **Kildee**. I am not a traveler much myself, but I seriously think maybe staff could go. I think people like yourselves are really able to give us the tools and information for us to make better informed decisions down here. Therefore, we do appreciate any input that you can give us or let us know when certain things are taking place, so we might benefit.

Ms. **Hendricks**. It is also possible, Mr. Kildee, that given maybe the opportunity for people who are involved in the smaller programs to carry out a full discussion of it, it may very well be that it is not a problem as such, it is just a problem that we all keep talking about and talking about and talking about.

But unless you have some data to base that on, none of us really have any way of knowing.

Mr. **Kildee**. Very often in discussions like that, though, some related solutions surface, too. I have found that out.

Just one question—we have been asking almost all the witnesses this. You stated on page 6 that the likelihood of an acceptable definition for this program is doubtful but we still have to try. Would you care to try to suggest a definition?

Ms. **Hendricks**. I would not.

Mr. **Kildee**. That is a very straight answer.

Ms. **Hendricks**. I would not like to suggest an adequate definition because what is adequate for me is not going to be adequate for somebody else. So being in the position I am, it is easy to push it off on someone else.

I have to live with the rules and regulations. I may not agree with them in their entire content, but it certainly makes them easier to live with if we all understand just what the heck they are.

Mr. **Kildee**. Very often Congress decides not to decide.

Ms. **Hendricks**. I realize that. School district administrators decide not to decide, also.

Mr. **Kildee**. Miss Nelson, if you have some ideas, too, on the base entitlements for the smaller grants, you could submit that for the record and we would appreciate that.

Ms. **Nelson**. Would you like me to submit them in writing or would you like me to make a comment?

I think the problems with just what she mentioned, almost the reality of it, is that you stand a better chance of getting the type of support that you need if you are not a California Indian in the State of California because then your numbers are larger and what it really means, again back to my reality, if you are a non-California Indian you have a better chance. If you are an urban Indian not from the State of California, you have a better chance of being provided the service through title IV than if you are a California Indian. That is reality.

We can't, our parent boards, our communities, are for lack of a better word, I will say our culture prevents us from asserting ourselves, from taking the same type of control or authority over our situation as, say, those Indian students, the parent boards, the communities of the urban students.

In California—we talked about it briefly out in the hall—anthropologists, I have read many times that anthropologists have described the California Indian as being a very passive, peaceful, noncivilized or nonsophisticated group, and sometimes I think perhaps that is very true, because for the 6 years that I have been involved in education, I have watched the progress, I have watched the funds and I have watched the children in urban areas receive far more service than our children.

I can also honestly say that in 6 years, being involved in education, the high school dropout rate of our children has gotten worse, and by the same token, the amount of dollars that we are entitled to receive through title IV, part A, gets less and less.

I will tell you why: It is because they have--again, the numbers of Indian students in the urban areas grow by leaps and bounds. School districts have gone from 100 Indian students 1 year to 500 in 3 years and get funded for that. The 60 children we have today may be 70 in 5 years, but they don't go from 1 to 500.

So the amount of funds that are being used to go to the urban areas to take care of that big jump in Indian students is taking away from the amount of funds that we have available for our use with our children.

Originally, title IV and the entitlement of part A, the honest to God truth is that if the urban areas were not increasing their numbers as rapidly as they would, the funds would be more equitably distributed.

So that is it. I don't know what to do about it. Like I said, our boards lack the sophistication, we lack the resources.

I am anxious to see and I am hoping that the resource centers that are being proposed, that they will become a reality because we are a small town group of people. We don't have the resources. We don't have the colleges and universities right next door to us that we can go to and say, please come and help us.

We are talking about going 100 miles into town to find that help or not knowing who to contact. So we have made progress, but it has been very slow and we are anxious too. We know we have it. We know we can do it, but we do need help.

Mr. KILDEE. Miss Young?

Ms. YOUNG. I agree with what she says, but I want to make a point to you that the urban Indian is very Indian, the majority of them. They are coming from the tribes, the reservations, from small rural communities. They move into town. They stay awhile, move into a large housing project. They don't have cars. They don't know how to use facilities.

I don't want you to get the idea that there is not a need in the urban areas. The problem in the urban area is that definition, well, I am one sixty-fourth, or, see, I think I am and I have discovered there are Indian funds and next year I will sign that form because I heard so and so got some service from it.

This is what is happening. It is making it difficult to serve those kids that really need it. This is the problem, that vague definition of what Indian is and not putting a limitation on the blood form.

Mr. **Kildee**. Mr. Lovesee?

Mr. **Lovesee**. Mr. Chairman, I have not heard anyone mention the term nonrecognized. Does it have no meaning or reference to what you are discussing or are you not including that in the problems that you have with the vagueness of the definition?

Ms. **Hendricks**. I want to use an actual situation as an example. To my knowledge, at any rate, the Yaqui Indians who reside in the southern part of Arizona and over into the Mexican border are not recognized by this Federal Government. Three years ago, the question come up as to whether or not we could serve some Yaqui students in our school district. They are Indian. They are very definitely Indian.

The rules and regulations say that I cannot serve those students who are not recognized American Indians, and immediately I got on the telephone.

First of all, I did some research. I did some reading about funds that were given to the Yaquis in southern Arizona by the State of Arizona. I thought, the State of Arizona is a federally recognized State and it has given money to Indians to improve their community who are not recognized by the Government for purposes of this program.

I called our Washington program specialist and explained the situation, told her about the reading I had done, and asked her what the situation was, whether or not we could in fact serve those students.

I have no doubts about the efficiency of my program specialist. However, she could not give me an answer. It was sent to whoever in that office is responsible for legal interpretations.

The answer I got was, please call your State department of education and ask them what they think with regard to recognition by the State of California.

I can guarantee you today that if there are Yaqui students in school districts in the State of California, they are being served by title IV funds and they are not federally recognized.

Mr. **Lovesee**. My question is: Should they be served?

Ms. **Hendricks**. I personally, and my parent committee and the two Indian gentlemen with whom I work in the State department of education in California, have no qualms about serving those kids. I have more qualms about serving students who are able to, I will use the word "legitimate," and I would never suggest that there was anything illegitimate.

You heard me tell you I would invite you to visit four times a year and show you the bad things as well as the good things.

I have more qualms about serving those Indian students in the community who, as Miss Young pointed out, have educational difficulties but they are not Indian-related, yet those kids are Indian and fit the definition but may only be one-eighth, one-sixteenth, and as far as I am personally concerned, are pretty well assimilated, but they fit the definition.

Mr. **Lovesee**. Mrs. Young?

Ms. **Young**. We had a lady earlier respond to Indian values, discussing this and how do we recognize or should we recognize them.

Yes, we should serve them. They are Indian. That is not the point that concerns me. If they are identifiably Indian, the value would be that they are brothers and sisters and they are recognized in their communities as Indians.

Whether the Federal Government recognizes them or not is irrelevant. They are Indian. I definitely would not deny services to those people.

I make the point she does, it is those people who do not identify, the one-sixteenth and the one thirty-second that are the problems, not the nonfederally recognized tribes. Those people are truly Indian. They deserve benefits for these moneys.

As a whole I think you will find this feeling throughout the country, that a majority of the people would not want to neglect those people. We don't need to be greedy. If we are Indian and we have needs, everybody should be served.

Mr. **Kildee**. Miss Jenny Vance, minority counsel, has some questions.

Ms. **Vance**. I found this very interesting and would like to follow up on one question regarding on who should be able to participate in title IV programs.

One of the problems that you brought out, Miss Young, was that it is not the education needs related to the child's Indianness that is being served when the blood quantum is of one thirty-fourth or less?

Is there a way to change the definition of "Indian" so that we can begin to determine or evaluate educational needs based on the child's Indianness as opposed to something else?

How can we separate educational need that results from the child being an Indian from other educational needs?

Ms. **Hendricks**. We find a magic bag to put them in. I don't know. One of my points, I think, unless I took it out of my written testimony, had to do with the regional information centers and the demonstration centers.

Many of the people that I work with are in a bind when it comes to properly identifying those instruments that we should use to determine whether or not this Indian child has a good or poor self-concept.

There are those, if you want to call them testing instruments, made specifically to deal with an Indian child. I don't know that there are those instruments which will specifically deal with and tell me whether or not that child's educational difficulties are because he is an Indian or are not because he is an Indian.

Ms. **Young**. Agreed. It is a very good question and it is very difficult to respond to. Let me tell you this: There is a lot of discrimination out there in the schools. If you are identified as an Indian, and if you are a part of that Indian community, you are discriminated against. If you are an outstanding student or a salutatorian, it is a fluke. You have to be super, super outstanding.

I come from a community called Tallequah where there is 50-percent Indian enrollment. As of this spring they had fewer than five Indian teachers. They have over 100 Indians, but only 2 of the teachers were identifiably Indian.

The parent committee went to the school board and the chief went with them. They told the school board. The school board said, we have always had sympathy for Indian children.

That is not what we wanted. We wanted Indian role models for our children. So this year the superintendent has made a real effort to hire Indian teachers, not because he cared about our children but because, first, a large number of parents went to the meeting, and second, the chief is not only the chief of the Cherokees but he is president of the bank, which is very important to the school board members.

So they are taking steps, but those children, most of those children's educational needs have to do with being Indian in that community. That is hard to put your finger on. How can you document it, you know.

Ms. **Hendricks**. I want to add something to that. Their educational problems are for the most part because they are Indian, and this probably has nothing to do with the testimony or the question at hand or anything, but as Indian people we sometimes instill that difficulty in that Miss Young commented there were very few, if any, valedictorians, or whatever.

Sometimes as an Indian person a child runs up against the wall. If he or she is able to fit into that category, what do the rest of my Indian friends think about it, and will they still accept me or have I gone just one step beyond where I ought to be?

So what I am saying is that I believe that probably 99 percent of our difficulties are created by the outside world, but we create at least 1 percent of them in what we expect of each other.

Ms. **Vance**. Is the parent advisory committee a realistic way, then, to validate who is and who should or should not be eligible? I know there are terrible problems in the urban areas doing that. I can identify with what you are saying as an almost impossible task. But what other suggestions would you make to making sure that those targeted to receive funds are actually supposed to receive funds?

Ms. **Hendricks**. I have no idea what the new form looks like. Some of the questions that people talked about earlier are to be asked of parents. With the form as it is and with the definition as it is, if that never changes, nothing else will ever change.

Perhaps whatever those questions are, and, again, you know, you run the risk of, you know, I am a parent and do I want you to infringe upon my privileges or do I want to answer all these questions or whatever?

If there were other identifying factors on that form that enabled the parent committee that I work with to look at it and say, OK, these make sense, this information is here and if the information that we are being asked for is information that someone would not falsify or someone would not stretch the fact, then maybe the inclusion of three, four, or five more lines of pertinent information required on that form might help all of us.

Ms. **Vance**. What pertinent information would you suggest? The reason I ask this is because it has really been a struggle in the Congress. Last year an attempt was made to address this problem because it goes back to the very question of roots and who you are and from where you are coming.

It is one that the Indian community reacted against very strongly, "don't tell us who we are." Then when the Congress asked for a recommendation on the specific changes the Indian community wanted, there were no recommendations.

It is a catch 22 situation. There are Members of Congress who are very interested in trying to do something with the title IV definition problem if it can be done.

There was data that came into the office about 2 years ago that showed, if I remember correctly, that the Los Angeles Unified School District was one where the title IV entitlement number grew drastically over a period of 2 years.

You state there were 3,979 students in the 1974-75 school year. Is that very different from the preceding year? What was the number of eligible title IV recipients in the 1972-73 school year?

Ms. **Hendricks**. I remember when you got that information. When you get information, statistical information, regarding Indian students from the Los Angeles Unified School District, the particular Congressman who was given that information was given a set of figures and to my knowledge, he was not given an explanation as to how those figures were gathered.

Ms. **Vance**. Could you provide that for the record right now?

Ms. **Hendricks**. Let me give you the kinds of data about Indian students that are collected in the Los Angeles Unified School District.

To begin with, in October there is what is called a visual ethnic survey done in the school district which is done through the Office of Civil Rights. That means I, as a classroom teacher, stand in front of this body of students, and without discussing it with you, because that is discriminatory and an invasion of privacy if I do, I have to put each of you into a slot regarding your ethnicity.

If your surname is Spanish, that saves me trouble because I can count the names. If you are visually black, to me in my interpretation that makes my job easier because I can lump you 1, 2, 3, 4, 5 black. If you have a last name of Smith, White, Jones, Brown, whatever, and in my teaching insensitivity I assume that is white, I can put you there.

As I look around the room, I see one child who fits my university stereotypical picture of the little, round, chubby Indian and I fill in the form that says one Indian student.

In that year the district will report that there are—these are not the figures you got but they are close enough examples—so the school district reports to the Office of Civil Rights that the district has 1,776 Indian students.

Along comes the district's title IV programs who must fulfill their obligations for counting Indian students and reporting the count to the State Department who will then report it to the Office of Indian Education.

We do our duties by sending out the 506 form, getting them out to all the schools with what is never adequate because I am not sure what is, if anything, is ever adequate. But we get it out with what is adequate for the time, information to the school principals as to how to handle it, to the parents as to how to handle it.

Being a large conglomeration, everything I send out as a survey must go through research and evaluation. It doesn't matter that the HEW initials are at the bottom. I have to get permission from the district to do it.

So we send those out with an appropriate amount of time for parents to sign them and send them back. They come back and I don't count them because I don't want to be the last person always that everything goes to. I want some friends with me.

Our parent comes in and counts them. They spend a week going through them as best they possibly can, given all the guidelines they are given, assuming that if the parent sees the statement on the bottom of the 506 forms that says, if I sign this, I am telling you the truth.

The other statement is that the information can be released to the parent committees. They go through. They look for completeness of information. They have no way of determining accuracy of information. They toss into a basket all the students whose tribes are Canadian Indian tribes, all students whose tribes are Mexican or below the border tribes, or all those forms that perhaps only have the names of parents, grandparents, but no tribal names.

We count them and, let's say, for a given school year we come up with 4,508, the same year that the school district has come up with a visual determination of 1,776. When someone in our government relations office then gives to a Congressman figures and does not tell him who compiled them or what the circumstances around that compiling was, yes, you get a very false picture of what is going on.

Those are not the definite figures, but that is exactly what the situation is.

Ms. **Vance**. Thank you.

From what you just said, then, can it be construed that if the parent committee sees an aplication, a 506 form that is complete, it is then determined to also be valid at the same time? It is completeness that determines validity, or have there been times in the past, ever since you administered title IV, that any child's application for title IV, that eligibility form has been rejected by the parent committee?

Ms. **Hendricks**. If an urban city the size of Los Angeles where the bureau says to you there are 80,000 people in the area, and I have no way of knowing where their statistics come from, and the Indian center says there are 60,000, I find it relatively easy to believe that there could be 4,000 or 5,000 or 6,000 students, Indian students, in grades K–12 with that large a total number.

So completeness for the most part, because we have no other instructions to deal with, yes, that is how we count Indian students for eligibility. We have no other way to do it. We have a parent committee of 20 who in whatever the deadline is should not be expected to go out and peruse 4,000 persons to find out if their statements are valid.

Ms. **Vance**. For each of the 6 years of title IV program operation have you seen a marked increase in the number of title IV 506 eligibility forms being submitted?

Ms. **Hendricks**. I don't know what you interpret as marked. In the last 3 years, I will count this coming school year, 1979-80 school year and 1977-78, so we are going backwards for 3 years, for the first year the count was—there was a significant drop from the school year we just finished to the school year we will begin in September. If the difference between 5,003 and 3,909 on the day that those forms were counted is significant, yes, that is significant.

Ms. **Vance**. That is a drop you are saying?

Ms. **Hendricks**. That is a drop from this school year we just finished to the new one we are beginning. It is a drop for a number of reasons. I am sure you are all aware that we are heavily embroiled in integration. We are bussing students all over the city. We have lost enrollment within the school district overall. Some of that enrollment, perhaps certainly not 1,000 students and perhaps not a significant number, has been Indian students.

We have Indian parents who have sent their kids to Indian schools out of the State as a result of the integration program. So that accounts for some of the drop.

The fact that we knew that new 506 forms were coming and that we knew there would be, or we didn't know, we thought there would be changes in the requirements, et cetera, we got heavy on new count last year.

I mentioned earlier that parents are inundated with counts. A lot of the forms go through the wash in the Levi pockets of boys and girls. So that accounts for the drop, also.

A lot of teachers are not sympathetic, empathetic, understanding, or whatever, of the program. The forms go in the wastebasket. I can cite you an instance 2 years ago where we sent out the forms and a cover letter to every principal of every school in the district and they were given specific instructions. They were either to advise our office, one, if there were no Indian students in their school and, two, then to return the 506 forms for those that were returned.

Those instructions and the forms reached the school on Tuesday morning in the Tuesday morning school mail. On Thursday I got negative reports back from at least 10 schools. Now in 2 days, 1 day's mail turnover, you as a school principal could not possibly get the information out to those parents and get back to me and report on that. So perhaps that is also a clarification of some of the drop.

Now the year before that our count went from, let's say, approximately 4,500 to 5,000. Is that a significant difference? I don't know because I don't know what your interpretation of significant is. It has gone up and then down from the 5 years that the district has been involved with the program from, I believe—and I say I believe because I was not there the first year—I believe the first year count was 1,775.

I used the facetious number a while ago of 1,776. That is relatively close.

So it has gone up from approximately 2,000 to 5,000 back down to 4,000.

Ms. **Vance**. If I could, one other question to Miss Young.

When you were talking about your budget of $4 million going out of the $52 million, whose total budget is that $52 million?

Ms. **Young**. That is Indian education. Is that the correct figure?

Ms. **Vance**. I thought you were talking about Northeastern State University.

Ms. **Young**. No, all title IV.

Ms. **Vance**. Maybe more for your information, and perhaps because it may be an area that the Indian community has not explored a lot, the Postsecondary Education Subcommittee of the Education and Labor Committee is now in the process of reauthorizing the Postsecondary Education Act, and in that there is a title V that deals with the teacher development.

There are, besides that, 36 other separate Federal authorizations for education and training of teachers and other education professionals. It is an issue that the subcommittee is considering right now, whether or not there should be coordination among those and just how different people can become a part.

Is there a teacher center training program or a teacher corps program at the Northeastern State?

Ms. **Young**. The problem I see with that, and that is not an Indian program, is that we are Indians training our Indian teachers.

Ms. **Vance**. I guess my followup question would be: Would it have to be an Indian program if you had an Indian project granted under it that would totally encompass Indian teachers?

Ms. **Young**. If you had an Indian set-aside or a grant.

Ms. **Vance**. Maybe not a set-aside, but a grant.

Ms. **Young**. They would fund it to an Indian group.

Ms. **Vance**. I suggest it because there is $37.5 million in the teacher corps program and especially through the Institute of Higher Education you can get cooperative training grants.

Ms. **Young**. They have that in Oklahoma some place. Some one had a teacher corps program last year.

Ms. **Vance**. One final thing, and I don't know, you may be more familiar with it than I, but the Oklahoma State Board of Regents has a fairly elaborate system of public television which works through the university system there, which I think could probably be very helpful in the training of Indian professionals by Indian teachers if you were to utilize what is already existing there in the State.

I would suggest that you talk to—I know the Board of Regents in Oklahoma is the one that has worked with that program. If Northeastern is an institution——

Ms. **Young**. We use it.

Ms. **Vance**. You do? Great!

Mr. **Kildee**. Thank you very much.

I would like to ask if we could submit questions to you in writing?

Ms. **Young**. Yes.

Mr. **Kildee**. We appreciate that very much.

These hearings have been extremely helpful to the Congress. It is my fervent hope that they will be helpful to the native Americans of this country. We will try to get them together and make recommendations to the full Congress. I appreciate your presence here today.

Tomorrow the subcommittee will meet at 9 a.m., in room 2261. The topic tomorrow will be "Impact Aid."

The subcommittee will stand adjourned until that time.

[Whereupon, at 2:30 p.m., the subcommittee adjourned, to reconvene at 9 a.m., Friday, July 27, 1979.]

OVERSIGHT HEARINGS OF THE IMPLEMENTATION OF INDIAN EDUCATION AMENDMENTS

FRIDAY, JULY 27, 1979

House of Representatives,
Subcommittee on Elementary, Secondary,
and Vocational Education,
Committee on Education and Labor,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9 a.m., in room 2261, Rayburn House Office Building, Hon. Dale E. Kildee (acting chairman) presiding.

Members present: Representatives Kildee, Williams, and Hinson.

Staff present: Alan Lovesee, majority counsel; Jeff McFarland, research assistant; Scherri Tucker, assistant clerk; and Jennifer Vance, minority legislative associate.

Mr. **Kildee**. The hearing will come to order.

This hearing of the Elementary, Secondary and Vocational Education Subcommittee will focus on the administration of the Impact Aid Program. This is the fifth hearing which I have chaired since Chairman Perkins asked me to spearhead the subcommittee's efforts in Indian Education.

This hearing has a very special significance. In 1978, this committee formulated legislation which became Public Law 95-561. Within those education amendments was title XI, the most wide-ranging reform of Indian Education ever enacted. One of its most important provisions made major changes in the way that Public Law 81-874, Impact Aid to Federally Affected Areas, would apply to Indian students.

The purpose of the statute was to increase the Indian input into, and therefore, the relevance of, public school education for Indian students. A complaint procedure was included, to be sure that this mandate was carried out. Central to this entire concept was the congressional recognition that Federal responsibility for the basic education of Indian children did not end at the public schoolhouse door.

The thrust of the statute is broad. The potential for success, measured by the lives of students is great; the potential for failure, measured by shattered hopes and expectations is correspondingly catastrophic. The balance between the two is fine.

The purpose of this hearing is to measure the administrative steps taken by the Office of Education to insure success. To be honest, the committee is very concerned over the actions or inactions taken so far. My concerns, mainly directed toward the omissions which have occurred, have already been transmitted to the Office. Today we will create a public record on these matters.

The first panel will be made up of Department representatives. I think I will call them in this fashion unless they would direct my attention to another procedure. I call up as one panel Mr. William Stormer, Director of School Assistance Division, Miss Edna Cave, program officer; and Miss Sarah Kemble, Chief, Elementary and Secondary Branch, Office of the Assistant General Counsel, Office of the Secretary, HEW; and also Mr. Rick Lavis, Deputy Assistant Secretary for Indian Affairs, Department of the Interior; Mr. Earl Barlow, Director of Indian Education Programs, Bureau of Indian Affairs; Mr. George Scott, Office of Indian Programs, Bureau of Indian Affairs.

STATEMENT OF WILLIAM E. STORMER, DIRECTOR, DIVISION OF SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS, U.S. OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE; EDNA CAVE, PROGRAM OFFICER, DIVISION OF SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS, BUREAU OF ELEMENTARY AND SECONDARY EDUCATION, U.S. OFFICE OF EDUCATION, HEW; SARAH KEMBLE, CHIEF, ELEMENTARY AND SECONDARY BRANCH, OFFICE OF THE ASSISTANT GENERAL COUNSEL, OFFICE OF THE SECRETARY, HEW; RICK C. LAVIS, DEPUTY ASSISTANT SECRETARY FOR INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR; EARL BARLOW, DIRECTOR, OFFICE OF INDIAN EDUCATION PROGRAMS, BIA; AND GEORGE SCOTT, OFFICE OF INDIAN PROGRAMS, BUREAU OF INDIAN AFFAIRS, BIA

STATEMENT OF WILLIAM E. STORMER, DIRECTOR, DIVISION OF SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS, U.S. OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Mr. STORMER. I am Bill Stormer, Office of Education.

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before this subcommittee to discuss the implementation of the Impact Aid provisions contained in title XI of Public Law 95-561. These provisions call for a new method of computing entitlement and making payments under the Impact Aid Public Law 81-874 program to school districts enrolling children residing on Indian lands. Briefly, these provisions:

Increase payments to local school districts to 125 percent of the regular entitlement for children living on federally defined Indian lands.

Insure the equal participation of such children—primarily Indian children—in the school program.

Require the dissemination of information, consultation, and active involvement of tribes and parents of Indian pupils in planning school programs.

Require local school districts to establish policies and procedures necessary to assure the involvement of parents and tribes in school planning.

Provide a mechanism for bringing complaints of noncompliance with established district policies and procedures to the Commissioner of Education as a means of securing remedies.

Following the enactment of Public Law 95-561, the Office of Education identified areas of the law requiring amended regulations. These were discussed with representatives of about 150 educational organizations shortly after the enactment of the law. Additionally, comments and ideas were elicited when the notice to amend regulations was announced. Subsequent to these activities, the provisions of title XI and other amendments to Impact Act and their proposed implementation were discussed with State and local educational officials in regional meetings.

Also similar discussions were held at a semiannual meeting of Impact Aid Act districts, and other parties in both formal and informal settings. Specifically with respect to title XI a number of conversations have been held with the Bureau of Indian Affairs work groups and officials, congressional staff, and with the Office of Indian Education in our agency.

Development of the proposed rules was guided by a departmental policy to reduce, simplify, and clarify all program regulations. Part of the departmental policy for the development of regulations called for regulating only where absolutely essential. To meet such objectives we, the Department, determined that application content would be included in notices to applicants and that the regulations would not paraphrase the authorizing statute. It was also concluded that greater emphasis would be placed on program informational packets and guidelines.

In general, we believe this is a good approach to developing regulations. However, if in the interest of regulatory brevity and conciseness we have failed to adequately communicate with the Indian community we will consider modification of our regulations as they are published in final form. We can understand that many Indian parents and others may not have access to the numerous documents and materials that would lead to a complete understanding of the new legislation.

The process of preparing preliminary regulations for the Impact Aid program including the amendments made in behalf of Indian children culminated in their publication in the Federal Register on June 29. We are now approximately halfway through the 60-day comment period on the proposed regulations. Written and oral comments and recommendations are welcomed. Public hearings have been scheduled for the purpose of receiving comments and recommendations. Such hearings will be held on each of our 10 regions on August2.

In addition, we will hold hearings in Pierre, S. Dak., on August 7 and in Phoenix, Ariz., on August 9, and also in San Juan, P.R., on August 21. All comments provided in the chairman's June 22 letter and in Mr. Hinson's letter of June 27 will be considered very carefully before the regulations are published in final form.

Also your hearing record of today will provide an additional source of valuable information in the form of comments and recommendations.

To facilitate public comment, approximately 12,000 reprints of our regulations from the Federal Register have been distributed to State and local educational agencies and other interested parties.

Additionally, we have developed portions of a comprehensive program information package which was sent recently to 450 tribal officials and to 700 Public Law 81-874 applicant school districts that enroll children residing on Indian lands. Copies were also sent to State educational agency representatives. This package contains a memorandum which explains the necessity for school districts to develop policies and procedures for obtaining the input of parents of children residing on Indian lands in planning and carrying out school programs. It also describes the content required in an application for Public Law 81-874 assistance in which children residing on Indian lands are claimed. Copies of the memorandum have been provided to your staff.

Assuming that all local educational agencies serving children residing on Indian lands in 1979 will be in compliance with title XI, some 690 districts will receive additional aid in 1980 under the expanded provisions of title XI. These districts presently educate about 94,000 pupils residing on Indian lands.

Mr. Chairman, that concludes my statement. My colleagues and I will be happy to answer any questions you may have.

Mr. KILDEE. Thank you very much.

Mr. LAVIS. Do you want to give your statement first and then we will ask questions?

STATEMENT OF RICK C. LAVIS, DEPUTY ASSISTANT SECRETARY FOR INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

Mr. LAVIS. Mr. Chairman and members, I appreciate the opportunity to appear before this committee to provide comments and express our concerns on the proposed regulations recently published in the Federal Register—Friday, June 29, 1979, part VI, 115.76-115.81—by the Department of Health, Education, and Welfare. Accompanying me is the Director of the Office of Indian Education, Mr. Earl Barlow and Mr. George Scott, co-chairperson of the Impact Aid Task Force.

My remarks today will review the Bureau of Indian Affairs involvement in addressing the Impact Aid provisions of title XI, comments concerning the proposed regulations published in the Federal Register of Friday, June 29, 1979, by the Department of Health, Education, and Welfare, and questions raised during the information seminars which were just completed in the field.

First, section 1101(d) of part A, title XI is the only section that pertains to the Bureau of Indian Affairs. All other sections of 1101 are the responsibility of the U.S. Office of Education, HEW. Task Force No. 1 under my direction has the responsibility for the development of regulations for the implementation of section 1101(d), part A, title XI of Public Law 95-561.

Task Force No. 1 was formed in January 1979 in Salt Lake City. The task force during this time reviewed resource materials, determined the scope of task force assignments, and developed task force action plans. Along with the action plans developed by the task force, the task force also knew that open lines of communication were crucial to the involvement of tribal and Bureau elements.

In addition, the task force made as a top priority that it would serve as an advocate to insure that all tribal governments will clearly understand their educational opportunities under section 1101.

After several meetings with the Office of School Assistance in Federally Affected Areas, it was found that basic information regarding Public Law 81-874 was not readily available to address the particular needs of tribes. Therefore, Task Force No. 1's first priority was to develop information concerning Public Law 81-874 and its amendments and disseminate it to those affected.

In keeping with the policy of Indian self-determination, Task Force No. 1 elected to assure maximum Indian participation in the process of regulation development by initiating the process from the field level. The development of the regulations had to be shared with and vested in those persons who would receive the services and those who would provide them. Several strategies were initiated in attempting to accomplish this objective.

In order to make these regulations as meaningful and as appropriate as possible for the persons directly affected, the task force designed a procedure to involve as many persons as possible in considering their impact prior to the formal publication.

A booklet was prepared to inform Indian parents, tribal officials, and other interested persons about Impact Aid—Public Law 81-874—and the changes made by the Education Amendments of 1978, that is Public Law 95-561. This is a copy of that brochure, Mr. Chairman.

The information included in this booklet focuses upon the relationship of Impact Aid to the educational programs offered by public schools for children who reside upon Indian lands.

Twelve sites were selected and public information seminars were held from June 18 through July 12 at sites as convenient as possible to Indian people directly affected by these regulations.

Information packets were disseminated to all tribal councils, Alaskan villages, and Johnson-O'Malley parent committees prior to holding the seminars.

At these seminars and through the dissemination of printed information, select members of the Task Force explained what Impact Aid is, and how, especially with the new law, it relates to Indian education and tribal governments.

Anyone attending, and those who could not attend, the seminars were invited to submit written recommendations, responses, comments or suggestions. All responses were due July 25, 1979, in order to be considered in the drafting of the proposed regulations by the full task force during the week of July 30. The task force will consider all written responses in the development of regulations to be submitted to the Federal Register.

After they are published, tribal governments will have another 30 days to respond to the regulations as they appear. We are confident that regulations will be ready for implementation by November 1, 1979, regarding section 1101(d) of part A, title XI of Public Law 95-561.

I would now like to discuss the proposed regulations published in the Federal Register on Friday, June 19, 1979, by the U.S. Office of Education, HEW.

As the principal Federal agency that administers major programs to federally recognized Indian tribes, we strive to advocate in their behalf.

The recently completed information seminars clearly indicate to us that very little is known about Public Law 81-874, much less the relationship between the funding aspects related to public school districts among the Indian population.

The tribes are much more aware of the aspects of Johnson-O'Malley and title IV of the Indian Education Act of 1972 than they are of other major Indian programs funded from other sources. Since this new legislation contains special requirements for the involvement of Indian parents and tribes and additional authorization for funding for those school districts which educate children who reside upon Indian lands, it is critical that Indian parents and tribal officials understand what impact aid is, how it operates, and what the changes made by Public Law 95-561 mean.

In order for the new law and the proposed regulations to be effective, Indian parents and tribal officials must have the avenues to express their views concerning them and become actively involved if the intent of the law is to be fulfilled.

The proposed regulations published on Friday, June 29, 1979, on section 1101 of Public Law 95-561 of the Impact Aid Amendments don't clearly communicate to the Indian parents and tribes their rights and responsibilities.

We believe that the regulations should include specific detailed requirements, including the minimum requirements for relationships between the local education agency, LEA, and tribal governments and parents of Indian students attending the public school system.

This could insure a more reasonable working relationship between all affected parties and reduce unnecessary misunderstandings. Although we understand the reasons for HEW's cross-referencing policy in regulation writing, we must support regulations that contain clearcut self-explanatory language.

Unfortunately, very few Indian communities have access to Federal laws, much less access to Codes of Federal Regulations.

The Indian communities will certainly be at a disadvantage if the regulations are not self-contained and clearly translatable and workable in practice.

During the information seminars, certain questions were raised which could not be answered by members of the Task Force. We are sorry that the U.S. Office of Education could not participate. We would like to pass these questions on to the Commissioner, U.S. Office of Education, for his consideration.

These questions all concern sections relative to part A, section 1101 of Public Law 95-561.

I won't go through those, Mr. Chairman. They are set out in my prepared remarks.

Obviously these issues are not all-inclusive regarding this section of the law. All members of Task Force No. 1 will meet the week of July 30 to review any additional comments that were received by

July 25 and a more comprehensive and updated recommendation will be forwarded to the Commissioner, U.S. Office of Education, for his consideration.

To conclude, Mr. Chairman, I must suggest that the Department of Health, Education and Welfare reconsider their cross-referencing policy and publish clear and self-contained regulations that would avoid unnecessary confusion in the future.

Mr. Chairman, this concludes my statement.

[The prepared statement of Mr. Lavis follows:]

PREPARED STATEMENT OF RICK C. LAVIS, DEPUTY ASSISTANT SECRETARY FOR INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

Mr. Chairman and members, I appreciate the opportunity to appear before this Committee to provide comments and express our concerns on the proposed regulations recently published in the Federal Register (Friday, June 29, 1979, Part VI, §§ 115.76–115.81) by the Department of Health, Education, and Welfare. Accompanying me is the Director of the Office of Indian Education, Mr. Earl Barlow, and Mr. George Scott, Co-Chairperson of the Impact Aid Task Force.

My remarks today will review the Bureau of Indian Affairs involvement in addressing the impact aid provisions of Title XI, comments concerning the proposed regulations published in the Federal Register (Friday, June 29, 1979) by the Department of Health, Education, and Welfare, and questions raised during the information seminars which were just completed in the field.

First, Sec. 1101(d) of Part A, Title XI is the only section that pertains to the Bureau of Indian Affairs. All other sections of 1101 are the responsibility of the U.S. Office of Education, HEW. Task Force No. 1 under my direction has the responsibility for the development of regulations for the implementation of Sec. 1101(d), Part A, Title XI of Public Law 95–561.

Task Force No. 1 was formed in January 1979 in Salt Lake City. The Task Force during this time reviewed resource materials, determined the scope of Task Force assignments, and developed Task Force Action Plans. Along with the action plans developed by the Task Force, the Task Force also knew that open lines of communication were crucial to the involvement of Tribal and Bureau elements. In addition, the Task Force made as a top priority that it would serve as an advocate to ensure that all tribal governments will clearly understand their educational opportunities under Section 1101.

After several meetings with the Office of School Assistance in Federally Affected Areas, It was found that basic information regarding Public Law 81-874 was not readily available to address the particular needs of tribes. Therefore, Task Force No. 1's first priority was to develop information concerning Public Law 81-874 and its amendments and disseminate to those affected.

In Keeping with the policy of Indian self-determination, Task Force No. 1 elected to assure maximum Indian participation in the process of regulation development by initiating the process from the field level. The development of the regulations had to be shared with, and vested in, those persons who would receive the services and those who would provide them. Several strategies were initiated in attempting to accomplish this objective. In order to make these regulations meaningful and as appropriate as possible for the person directly affected, the Task Force designed a procedure to involve as many persons as possible in considering their impact prior to the formal publication. A booklet was prepared to inform Indian parents, tribal officials and other interested persons about Impact Aid (P.L. 81–874) and the changes made by the Education Amendments of 1978 (P.L. 95–561). The information included in this booklet focuses upon the relationship of Impact Aid to the educational programs offered by public schools for children who reside upon Indian lands.

Twelve sites were selected and public information seminars were held from June 18 through July 12 at sites as convenient as possible to Indian people directly affected by these regulations. Information packets were disseminated to all tribal councils, Alaskan Villages, and Johnson-O'Malley parent committees prior to holding the seminars.

At these seminars, and through the dissemination of printed information, select members of the Task Force explained what Impact Aid is, and how, especially with the new law, it relates to Indian education.

Anyone attending and those who could not attend the seminars were invited to submit written recommendations, responses, comments or suggestions. All responses were due July 25, 1979, in order to be considered in the drafting of the proposed regulations by the full Task Force during the week of July 30. The Task Force will consider all written responses in the development of regulations to be submitted to the Federal Register. After they are published, tribal governments will have another 30 days to respond to the regulations as they appear. We are confident that regulations will be ready for implementation by November 1, 1979, regarding Sec. 1101(d) of Part A, Title XI of Public Law 95-561.

I would now like to discuss the proposed regulations published in the Federal Register on Friday, June 29, 1979, by the U.S. Office of Education, HEW.

As the principle Federal agency that administers major programs to Federally recognized Indian tribes, we strive to advocate in their behalf. The recently completed information seminars clearly indicate to us that very little is known about Public Law 81-874, much less the relationship between the funding aspects related to public school districts among the Indian population. The tribes are much more aware of the aspects of Johnson-O'Malley and Title IV of the Indian Education Act of 1972 than they are of other major Indian programs funded from other sources. Since this new legislation contains special requirements for the involvement of Indian parents and tribes and additional authorization for funding for those school districts which educate children who reside upon Indian lands, it is critical that Indian parents and tribal officials understand what Impact Aid is, how it operates, and what the changes made by Public Law 95-561 mean. In order for the new law and the proposed regulations to be effective, Indian parents and tribal officials must have the avenues to express their views concerning them and become actively involved if the intent of the law is to be fulfilled.

The proposed regulations published on Friday June 29, 1979, on Section 1101 of Public Law 95-561, the Impact Aid Amendments don't clearly communicate to the Indian parents and tribes their rights and responsibilities. We believe that the regulations should include specific detailed requirements including the minimum requirements for relationships between the local education agency (LEA), and tribal governments and parents of Indian students attending the public school system. This could ensure a more reasonable working relationship between all affected parties and reduce unnecessary misunderstandings. Although we understand the reasons for HEW's cross-referencing policy in regulation writing, we must support regulations that contain clear-cut self explanatory language. Unfortunately, very few Indian communities have access to Federal laws, much less access to Codes of Federal Regulations. The Indian communities will certainly be at a disadvantage if the regulations are not self-contained and clearly translatable and workable in practice. During the information seminars, certain questions were raised that could not be answered by members of the Task Force. We are sorry that U.S. Office of Education could not participate. We would like to pass these questions on to the Commissioner, U.S. Office of Education, for his consideration. These questions all concern sections relative to Part A, Section 1101 of Public Law 95-561.

(1) Sec. 1101(D)—Definition of "Indian lands" as described in Clause (A) of Section 403 (1). Question: How does the Alaska land claim settlement affect the eligibility of Indian lands in school districts in Alaska in the future?

(2) Sec. 1101(D)—Impact Aid funding for children who reside upon Indian lands is increased to 125 percent of the normal entitlement. Question: Can school districts recapture the extra 25 percent entitlement from SEA's that meet the equalization criteria set by the U.S. Office of Education?

(3) Sec. 1101(B)(I)—Clarify the phrase "afforded an opportunity" by setting minimums.

(4) Sec. 1101(B)(II)—Clarify the phrase "actively consulted and involved" by setting the parameters for minimum consultation and involvement.

(5) Sec. 1101(B)(III)—Define and set minimum requirements regarding the phrase "afford a general opportunity."

Obviously, these issues are not all inclusive regarding this section of the law. All members of Task Force No. 1 will meet the week of July 30 to review any additional comments that were received by July 25 and a more comprehensive and up-dated recommendation will be forwarded to the Commissioner, U.S. Office of Education, for his consideration.

To conclude, Mr. Chairman, I must suggest that the Department of Health, Education, and Welfare reconsider their cross-referencing policy and publish clear and self-contained regulations that would avoid unnecessary confusion in the future.

Mr. Chairman, this concludes my statement.

Mr. KILDEE. Thank you very much, Mr. Lavis.

We will begin some questions. First of all, for Mr. Stormer.

As you know, part of the purpose of these hearings is to establish a record of the intent of Congress and create some dialog between the two agencies which serve our Indian students.

Mr. Stormer, as you mentioned in your testimony I sent on June 22, 1979, a letter to the Office of Education detailing my concerns regarding the regulations to implement Public Law 81-874 as amended as Public Law 95-561. I would like to make that letter a part of the record of this hearing.

[The letter referred to above follows:]

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 22, 1979.

Dr. ERNEST BOYER,
Commissioner of Education, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. COMMISSIONER. For the past three years, the House Committee on Education and Labor has put special effort into the field of Indian education. The result of this work, Title XI of the Education Amendments of 1978 (Public Law 95-561), is a major effort to fully equalize Indian education opportunities. Of special significance was the Committee's action with respect to impact aid (Public Law 81-874). For the first time, the Committee took substantive action on the Federal responsibility to see that public schools receiving impact aid deliver equal and relevant services to Indian students.

I was very active when the impact aid segment of Public Law 95-561 was developed by the Advisory Study Group and the full committee. Since I am cognizant of the special concerns and facts that shaped the final Public Law 81-874 amendments, I have been asked by Chairman Carl D. Perkins to oversee the implementation of this section.

I am very concerned about the adequacy of the proposed regulations on Section 1101 of Public Law 95-561, the Impact Aid Amendment which your office will publish shortly. Very recently, I learned that the Department of HEW, following departmental policy, had decided that only "bare-bones" regulations, having many cross-references and areas for later clarification, would be published.

While I fully support the effort to cut down the bulk and complexity of Federal regulation, I am sure that publishing regulations which are "bare-bones" or less than fully expositive would not be in the best interest of the law. I know that this must be a claim made by various groups, all of whom may have valid reasons for their position. Therefore, I hope that you will take the time to seriously review the following considerations.

First, the intent of Section 1101 of Public Law 95-561 is to establish a mechanism to ensure a dialogue between the local education agency (LEA), the tribal officials and parents of Indian students attending the school system. Specific areas of input are included within the statute, i.e., program formulation and evaluation and monitoring. Most importantly, the statute sets up a mandatory complaint process, to be administered by the Impact Aid Office, whereby Indian tribes may challenge the input policies and procedures of the public school entity, both as to substance and practice.

The Committee believes that the discussion which this statute requires will be beneficial to all. However, the Committee is also aware of the fact that any attempt to right the inequities of the past through mandated dialogue is a difficult road.

The entire thrust of the Committee's action was to increase Indian participation without violating local school board program control. While some conflict will arise (to be handled by the complaint procedure), the section was carefully worked to: (1) see that both parties had rights and limitations, and (2) avoid unnecessary conflict.

This can only be done if the Office of Education exercises extreme care to see that all parties, Indian or public school, understand, in advance, what the law says; what rights are and are not conferred; what the requirements for compliance are; and what the parameters will be by which compliance will be judged.

In other words, the regulations must be specific enough to allow the parties to order their relationships so as to guarantee some certainty in the future. If this is not done in advance in the regulations, it will have to be done, step-by-step, through a very painful complaint process.

This concern is made even more serious by the highly charged political nature of the communities which are involved. The Committee does not foresee numerous communities in which accommodation between the Indian tribes and the local education agencies cannot ultimately be reached. However, it is only realistic to admit that some communities will be involved in the complaint process from the start, as the parties seek to define their relationship with one another and the program which is best for the children.

(1) In my opinion, the regulations should contain a statement of the Congressional intent in enacting the law and a restatement of the law's strictures and provisions.

While I realize that this contradicts both HEW's policy that regulations consist chiefly of exceptions to the law and O.E.'s cross-referencing policy, I feel it is very important that the regulations are self-contained. Existing HEW and OE policies place restrictive conditions on those wishing to understand their rights by requiring access to provisions of the law, access to other OE regulations, and an understanding of the process of interpretation.

Unfortunately, these situations do not exist on Indian reservations. The Education and Labor Committee has visited Eskimo fishing villages where the presence of such a library of material is unknown. A similar situation exists in remote Navajo communities. If one set of regulations were complete unto itself, these could be duplicated and distributed and changes to them noted and made. If a library of materials is necessary, Indian communities will simply file complaints without any decision on merit, leaving it to the Commissioner to "sort the whole thing out." I do not think that the Office of Education can afford to create a situation which will involve needless, duplicative work.

Additionally, whatever rules apply to this program will have to be translated into the appropriate Indian language to allow parents and tribal councils to understand them. This is not a matter of diplomacy or tact.

It is a matter of necessity. Having been given the privilege of addressing the Tribal Council of the Navajo Nation. I know that the business of that chamber is conducted in Navajo, because it is the only language many of the council members speak fluently. This situation also exists in many, many places, from Afatchkee in the Florida Everglades to Barrow, Alaska.

Only if the regulations are clear and self-contained will such translation be possible. Anything else is simply fostering a situation of programmed failure, tribal disillusionment, and dissension between Indian and non-Indian communities.

(2) The requirements of this program should be contained in the regulations. Staff discussions have noted that the Impact Aid Office anticipates putting together a memorandum and a detailed guideline and program package. These would serve to clarify the regulatons and fill in their gaps.

The legal character of these communications is questionable. Though I would assume they would certainly be binding upon your office, they may not be binding on applicants. The drafts of the potential memorandum are vague and do not do much to clarify positions.

More importantly, however, rule-making by communique is a poor idea in this instance, given the nature of the law, the parties involved, and the distances between parties.

If the Office of Education intends to follow this policy, it must see that all parties who have, or could have, an interest in the education of Indian students receive copies of this material. Prior to discussions with Committee staff, the Impact Aid Office was going to rely on state impact aid officers or public school officials to relay information to the tribe. Obviously, given the law and the complaint procedure involved, the local educational agency (LEA) and the state educational agency (SEA) can hardly be viewed as impartial or unbiased observers. So this idea is fraught with peril.

Also, each party has the responsibility to act under this law. To place this weight on the public school authorities will add an extra stricture to the law which was not intended by Congress.

Furthermore, tribal governments are political entities, with tribal factions. To say that this is not a matter of concern is unrealistic. The provision of materials to "THE TRIBE" is not always provision of materials to those who will be involved in this matter. The Office of Education should consider the implications before injecting itself into tribal politics by selected mailings.

Additionally, the Office of Education will have an affirmative obligation to see that all of the parties receive all of the pieces of information now and in the future. Obviously, given the capricious nature of the mails in Alaska and on reservations, this would be an impossible task.

The Office of Education will be responsible for seeing that the parties have access to this information at the same time. If the Office of Education is to be the eventual objective arbiter of complaints, all parties should be treated alike from the beginning.

Finally, the publishing of full, comprehensive guiedelines and regulations is a necessity to quiet the concerns of the Indian community. These concerns deal with the Indian perception of OE as being pro-LEA and pro-SEA biased where Indian rights and children are concerned. I offer no opinion on the validity of this view, other than to say that past events do not render such an opinion totally unreasonable.

However, failure by the Office of Education to recognize this concern and act upon it will hinder this program's chances from the outset. Frankly, the publication of clear, concise, and comprehensive regulations, all contained in one place, will protect the Office of Education. Ultimately, it will make the job easier, cheaper, and more worthwhile.

(3) The regulations should clearly advise the parties of their rights and responsibilities. This act went through several revisions, and much confusion exists around the country as to what the law actually says.

For instance, an early version had a requirement of tribal signoff on the LEA's application. This requirement is not in the final law. An earlier version allowed a tribe to withdraw its students at will. This is no longer accurate.

On the other hand, the current law contains requirements for specific policies and procedures and a detailed complaint procedure (Sections 1121(c)(3)(B) and 1121(c)(3)(C), respectively). The regulations should let people know where they do, or do not stand.

(4) Minimum guidelines for the formulation of the policies and procedures required, i.e., public meetings, public availability, etc. should be included in the regulations.

(5) The regulations for the complaint procedure should be complete, and should at least involve the following:

(a) The recognition that the tribe will serve as the initial "funnel" for complaints, deciding on those it will or will not pursue;

(b) The requirement for complaints should be spelled out and should specifically address the policies and procedures required by this section;

(c) Regulations should place parameters on the decision-making authority of the hearing examiners. These can be patterned after the reasonableness language which was found in the House report. They are very important to insure that different hearing examiners are following the same pattern. Additionally, such parameters will provide stability for the program, guidance for hearing examiners, guidelines for final determination by the Commissioner, and confidence for the participants;

(d) A specific statement on how the BIA's responsibility during the withdrawal of Indian students will be met; and

(e) Guidelines on how the Commissioner will determine the timelines for the withdrawal of Indian students, if this provision becomes applicable.

These are my main concerns. I realize that I have written at length, but I think that this is necessary to point up the complexity of this situation and the seriousness of the potential problem. While I realize that what I am proposing will require revision of the regulations currently pending, I feel it is vital.

Conversations have taken place between the Impact Aid staff and the staff of the Education and Labor Committee on these concerns. I believe progress can be made on them rapidly, with your approval. I offer my full cooperation and that of the staff for this purpose.

I hope you will immediately take the action necessary to start this process. Years of effort have gone into the fine tuning of this section of the law. Hopes have been raised. Failure to act on these proposed regulations in a timely manner will affect the success of this program and would be a severe blow to Indian education throughout our country.

Sincerely,

DALE E. KILDEE.

Mr. KILDEE. The letter sets out concerns which had been voiced at the staff level during several prior discussions over a 2-month period. It points out the fact that the department's policy of publishing minimal regulations, while usually laudable, in my opinion causes a great problem in administering this part of the program. The regulations which were subsequently published reflect the minimum rule and some of my concerns. The Impact Aid people are well aware of my concerns and have been receptive to them.

However, the department's position on expanding the regulations has been ambiguous, though your written and oral statements this morning that they will be expanded if needed is heartening to this committee.

Mr. Stormer, do you think that the regulations proposed are adequate and would you address your office's plans to augment and refine the program by memorandums or communications to the field?

Mr. **Stormer**. The regulations, as indicated, were prepared in a manner to reduce, simplify, and spell out only that which we believed was absolutely necessary to have in the regulation.

As a consequence, we did publish separately the memorandum which would ultimately become a part of a larger program information package.

We believe that that memorandum was necessary in order to advise local educational agencies, State educational agencies, tribes and tribal governments, and parents of what we believe the broader scope of requirements are in order to implement title XI.

As I indicated in the statement, we will certainly strive to augment the regulations within the policies of the department.

I am not just sure how far we will be permitted to go but certainly we will make an effort to expand and make these more readily understandable by parents and tribal leaders.

By the same token, we anticipate publishing ultimately a set of, if you will, guidelines or a guide which would be a much more detailed account as to how school systems, tribes, and parents may assist in the implementation of the intent of the Congress under title XI.

Mr. **Kildee**. Counsel has a corollary question.

Mr. **Lovesee**. Mr. Stormer, pursuing that same line of questioning, we realize it is the policy of the department that will be determinative in this particular situation. However, outside of that policy and outside of how far you are permitted to go with relation to that policy, personally, as the person who is heading up the section charged with administering this section of the law, do you feel your job of administration would be facilitated or be better if the regulations were expanded. Especially to meet some of the concerns that have been voiced and will be voiced today by the witnesses?

Mr. **Stormer**. Personally, I believe that be it regulations or guidelines, expansion is necessary. The question is whether it is essential that it be regulatory—or whether you want to describe in guidelines a portion of a minimum requirement that must be implemented by a local educational agency.

There is a fine line as to whether we are going to give a guide, give an illustration of a step that must be complied with or say that this is the way to do it.

I am not convinced that we have to describe in every instance this is the way by which a school district must or this is a way by which a parent must actually get involved in a particular item.

To answer your question, Mr. Lovesee, a little more centrally, the answer is yes, the more you have in writing, the more understandable things are to everybody.

Mr. **Lovesee**. I feel that the committee, in enacting the bill, did not intend the specificity you are mentioning with respect to regulations. However, there is a difference between specificity of that type and parameters and rights and responsibilities.

With respect to the memorandums or published guidelines, what would be their legal aspect? Would they have the same legal effect as regulations?

Mr. **Stormer**. Ultimately I believe we will be compelled to publish guidelines in the Federal Register so that the total universe of those involved would be aware of what those guidelines are.

The question as to whether they would have legal weight, as a regulation per se, I will defer to Miss Kemble.

Miss **Kemble**. Any rule, to have legal force, has to be published in the Federal Register as a regulation. There is a provision in the General Education Provisions Act which requires this.

I am not quite sure what you mean when you refer to guidelines. When we talk about guidelines in the department in the Office of General Counsel, we are usually talking about statements by way of suggestion or guidance to the field, to a grantee, something which falls short of a requirement but which is by way of suggestion.

This is one way in which a local educational agency might comply with the requirement for disseminating the information. You might do it this way, by meetings, written notices to parents, and so forth. But it falls short of a requirement because we are not saying this is the only way you can do this. This is one way.

I understood that perhaps you didn't feel this kind of thing would be a very good idea. This is what we talked about in guidelines. It is a term of art as we use it. Perhaps you are using it somewhat differently.

Mr. **Kildee**. Guidelines in laymen's terms can mean suggestions or parameters. In what fashion would you be using guidelines?

Miss **Kemble**. When we use the guidelines, we use it in the way I just explained. Any requirement which is imposed on anyone by the department has to be in the regulations otherwise it is not legally effective.

Mr. **Kildee**. If I were in the field, as a parental leader or parent, in addition to all the legal requirements of rules and regulations, what would be helpful would be an enchiridion, a handbook, in which you have both parameters and suggestions. I realize that is beyond the scope of the rules and regulations in the Federal Register as such. However, that is what in effect could be drawn from more comprehensive regulations. An enchiridion or handbook would allow people to know exactly what their rights are and what their relationships are.

What could we do to achieve that by elaborating upon the regulating process?

Mr. **Stormer**. I guess I visualize in some respects a handbook—maybe guidelines is what I am thinking of—something that would be published that would contain the provisions of the law, the regulations that are applicable to those provisions of law, and then a descriptive narrative of how these regulations and provisions of law actually fit together and how they may be implemented in turn or how a district or parent might exercise rights under them so that you really have a threefold side-by-side proposition.

Here are the provisions of the law; here are the regulations that implement those provisions of the law, and this is the way in laymen's terms you go about doing it and these are your rights under those provisions.

Mr. KILDEE. But the strength or validity of that handbook would be enhanced if the regulations were more complete, would it not? Or do you feel that this would be guidance coming from your department only as to the mode of application?

Mr. STORMER. It is like the regulation "the Commissioner may require such information as necessary to approve an application" or something like this general terminology that is used in our regulations right now in several instances. I think a better way is to tell a local district, as well as a parent, the specific information that is required. Just that bland statement that the Commissioner may request data he believes to be necessary in order to do the job is inadequate conveyance of information.

Mr. KILDEE. Counsel.

Mr. LOVESEE. If I may proceed along that point, perhaps I used the wrong term of art, Miss Kemble.

Let me use the term used in the testimony, "comprehensive program information package." What would be the legal viability of that? Is it legally binding?

Miss KEMBLE. Not unless it is based on regulations or on provisions that are in the statute itself but, of course, the Office of Education has done this kind of thing quite often.

As long as whatever explanatory material was in it was based on the law, the regulations, if it did not go substantively any farther than the law and regulations, but were a little more complete and easier to understand, there would be no problem.

Mr. LOVESEE. One of the differences I see between that and a regulation process is the input provision. The regulation process has the publication of a notice, a proposal to make rules. It then has the publication of the proposed regulations, a comment period, a final regulation publication along with the justification or review of the comments received.

At least that allows some opportunity for input by the public. What would be the input mechanism for a "comprehensive program information package" to assure all people an opportunity to input into that, especially from the standpoint of seeing what the proposal was? Or do you anticipate that at least as far as the "field" is concerned, it would be published as a final product?

Mr. STORMER. You can certainly secure the public's comments if you are publishing it in the Federal Register as we have indicated, on that "final product" but it would certainly be more easily done to secure public comment on a draft document of a complete informational package.

This could be circulated to receive any comments that interested parties were willing to provide us more so than any other instrument that we might use.

Mr. LOVESEE. How would that circulation take place?

Mr. STORMER. Certainly you could make a circulation similar to the manner in which we have circulated the memorandum of July

12. I would suspect on occasions we may even receive comments with respect to our memorandum of July 12 which is a part of that document and on the portions that are of concern to tribal leaders, I suspect we may receive some comments there.

You can certainly utilize that same methodology, but specifically asking for comments and probably do it more quickly than relying upon the publication of a regulation and receiving comments within 30 or 60 days.

Mr. KILDEE. The chairman of the full committee and the chairman of the subcommittee, Mr. Carl Perkins, is with us.

Mr. PERKINS. We always want to see that the Indians are treated equitably in every respect. I have seen you here before and I know you want to do the best thing possible.

Mr. Kildee and Mr. Lovesee have worked long and hard in the subcommittee and we are going to do the very best we can to see that Indian people receive as much consideration as any other group that receives Impact Aid.

I am interested in these hearings since as a result of these oversight hearings, we may have some adjustments to make. That is the purpose for the hearings.

Thank you very much, Mr. Kildee. I just wanted to put in an appearance with you and Mr. Hinson this morning.

Mr. KILDEE. Thank you. I know the other members of the subcommittee, along with the staff, have appreciated your past and continuing interest in Indian education. It has been very helpful.

Mr. PERKINS. We want to make sure those who have been discriminated against to a degree in the past—up until a few years ago they have been just about overlooked—are no longer discriminated against. For the past several years we have been trying to improve Indian education and we hope to continue to work in that direction. You may continue with your hearings.

Mr. KILDEE. Thank you very much, Mr. Chairman.

I think the feeling of the subcommittee, and the staff, in looking over the initial regulations is that somewhat more descriptive regulations plus this handbook which will give people guidance would be desirable. Both would be helpful so that all parties will know clearly their responsibilities as defined by regulations.

I think that is very important, that a handbook be cast with the authority of a regulation when you spell out more clearly the responsibilities of the various parties involved.

As far as the regulations are concerned, I think some cross-referencing or some reiteration would be helpful, so that the people will understand the law clearly. Often there is a conflict involving the responsibilities of the various parties involved, especially on how much authority one group has compared to another group. I think that is very important that we spell out those responsibilities.

I turn back to counsel.

Mr. LOVESEE. I have no further questions, Mr. Chairman.

Mr. KILDEE. Mr. Hinson?

Mr. HINSON. Thank you, Mr. Chairman.

Mr. Stormer and Mr. Lavis, I appreciate your remarks. I have seen Mr. Lavis before and recognize his expertise in the field.

I would ask Mr. Stormer what kind of response have you seen so far, to these proposed regulations from the local educational agencies? Has it been enthusiastic?

Mr. **Stormer**. It really hasn't generated much response at this point in time.

Miss Cave, you may recall whether we have a handful of letters. We have had some verbal comments, but in terms of generating a volume of correspondence, the answer is that that has not yet taken place.

I would suspect we will get more comments both orally and written once the hearings have taken place in the regional settings as well as in Phoenix and Pierre.

These were published the 29th. It was probably a week later that the massive distribution took place. I suspect that a great many people are having difficulties at this point in time going through the small fine print.

Mr. **Hinson**. It is a little early I would think to expect a massive response.

Would you consider it reasonable to say that if there is reluctance on the part of LEA's to have Indian parents participating in these plans there would be some ruling they would not be in compliance with the guidelines if they don't have the force of law?

Mr. **Stormer**. If the school districts are not actually following the law, yes. I think the law is explicit in terms of requiring the participation of parents of children residing on Indian lands and involving them. Even as the regulations are currently written and as the law is more specifically written, I think you can make a determination as to whether school districts are in good faith living up to the law and the regulations.

Mr. **Hinson**. Do you have any kind of monitoring or compliance mechanism to insure that they are indeed in compliance with this set-aside?

Mr. **Stormer**. The implementation of this commences the first of this next school year in reality. There are compliance procedures available to us. We will have asked the school districts to submit and accompany their normal application with a series of information items describing how they do in fact propose to live up to the law and the regulations.

By the same token, once this has taken place, certainly the tribal authorities have the capability of entering complaints against the school system and rendering these complaints to the Commissioner so there can be set up a hearing process.

Mr. **Hinson**. I see about 150 educational organizations have been contacted after publication of the regulations. How many of those represent clearly identified Indian education interests?

Mr. **Stormer**. Mr. Congressman, this was a preliminary meeting with 150 agencies that took place immediately after the enactment of the law and was conducted as a general meeting describing not only our program, but a number of other programs. Our Deputy Commissioner, Dr. Minter, outlined areas in which amended regulations would be necessary and outlined some of the issues that we perceived back in September and October to be as areas of concern in the law.

I did look over the list that was available at that time. There were Indian organizations represented but I don't recall how many or which ones. Mr. Hinson, I believe it is necessary and desirable to have some kind of outreach, and an affirmative thing to take the message out.

Mr. HINSON. Has anyone from the Impact Aid Office gone to the major tribal groups, educational institutions in the country, to actually take the message out? Has anyone been on, say, the Navajo Reservation in Arizona?

Mr. STORMER. Not specifically for this purpose.

We had anticipated to participate with the Bureau of Indian Affairs during their 12 meetings. However, we were premature in our thinking. Our proposed rules were not in existence at that time and we were not able to participate with them.

To answer your question specifically, there has not been a specific meeting set up on the Navajo Reservation for this purpose or on other reservations. We do propose to have specific hearings intended to encourage some reaction from the tribal leaders. These are the reasons we have meetings in Pierre and in Phoenix.

I suspect we will get some tribal participation in the other formal regional office settings.

Mr. HINSON. In view of the fact this law has been changed to give Indian parents an unprecedented right to participate in the development of educational programs for their children, I would think some form of affirmative outreach effort ought to be made whether it be individually or in cooperation with your local agencies and I think it would be fine for HEW to make sure that BIA has all the information it requires to get this message out. I think it is very important that they do so.

I have only one last question. What, specifically, if you can tell me, would occur if you found that an LEA is not in compliance?

Mr. STORMER. I am making the assumption that a formal complaint has been rendered and the judgment made by the Commissioner that the school district was in noncompliance. Assuming this occurred during the middle of the year, there would certainly not be a shutoff of funds to disrupt the educational system, but at that point in time we would be in contact with the Bureau of Indian Affairs, indicating that this is a potential, and the Office of Education's first role would be to get back to the school system and say, "How can you rectify this? How can you get with these tribal authorities serving your school district and get a resolution of the problems; the Commissioner has said you are not really involving the parents, the tribes, and so forth, and try to get a resolution of the problems at the local level through the local board of education, local superintendent, and the tribal offices that exist in that particular school district."

I think that would be our first attempt, really, to work to get a solution that is reasonable on both parties.

I don't think anybody in reality wants to see a separation of the Indian children from the rest of the school district. But if no resolution locally could be achieved, then our work would be with the Bureau of Indian Affairs to determine how best these children could be served in future school years.

Mr. HINSON. Thank you.

Mr. Lavis, has the book that you indicated you are circulating been published in any Indian language?

Mr. **Lavis**. No, sir.

Mr. **Hinson**. Do you contemplate that is possible? It may not be desirable.

Mr. **Lavis**. There is a possibility we could do it in Navajo.

Mr. **Hinson**. Would it be impossible to do it in other languages?

Mr. **Lavis**. It is a good suggestion. I hadn't thought of it myself, but if it is possible, we will do it.

Mr. **Hinson**. Is your publication primarily intended for Indian parents?

Mr. **Lavis**. Yes. We will distribute it as far as possible because, as you said, this legislation sets up a different kind of relationship. We are going to make sure the tribal governments understand this. We will get it worked out.

Mr. **Hinson**. I was just curious to know particularly whether any such plan had been thought of.

Mr. **Lavis**. In the initial run of this, we had not done it that way, no.

Mr. **Kildee**. If you would yield, I think that would be very useful. I recall when I was out visiting the Navajo Nation at Eastertime, some of the parents who are really very concerned with education, who were the most knowledgeable of the needs of education for the children, were not English speaking.

I think the Navajos themselves intend to put this into Navajo but I think there are a lot of tribes who would be unable financially to do that themselves. So I think whatever might be done along those lines would be very helpful.

Mr. **Hinson**. Thank you, Mr. Chairman. I would ask unanimous consent that we get a copy of that publication and I would ask that it be made a part of the record at these hearings.

Mr. **Kildee**. Yes. We will make this part of the record, without objection.

[The information referred to above follows:]

Impact Aid

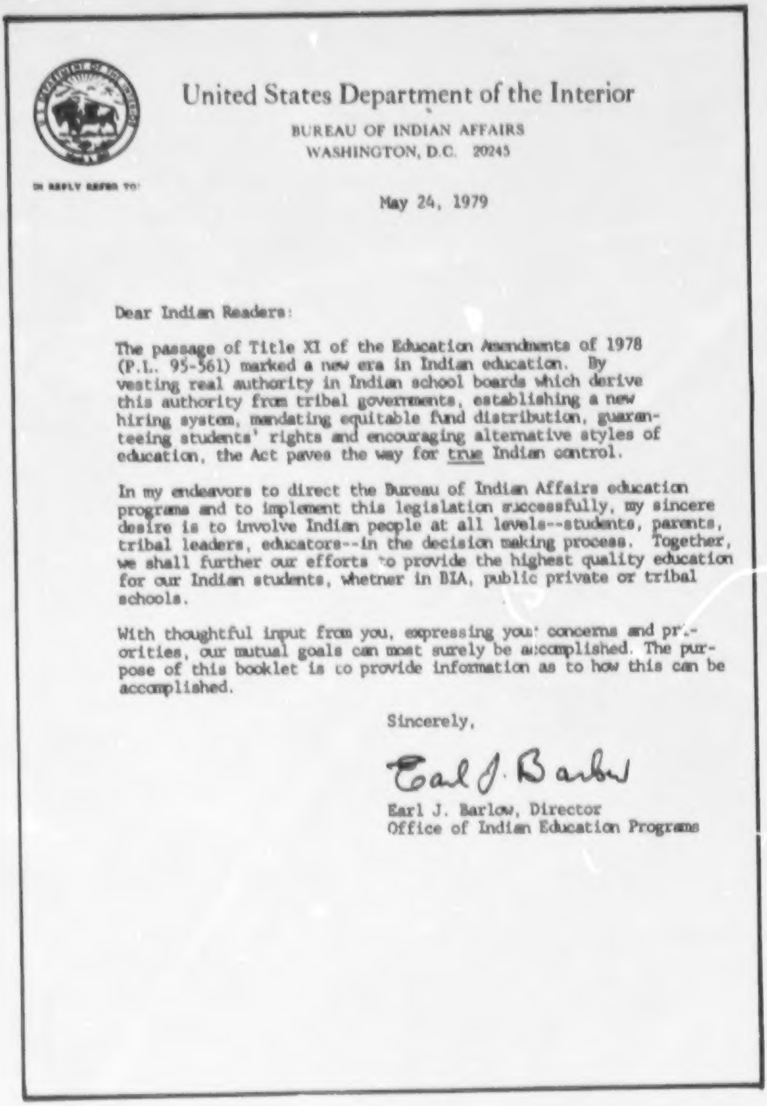
PL 81-874
as revised by
PL 95-561
TITLE XI - PART A, SEC. 1101

AN INFORMATIONAL BOOKLET FOR INDIAN PARENTS AND TRIBAL OFFICIALS

IMPACT AID
FOR PUBLIC SCHOOLS EDUCATING INDIAN CHILDREN

P.L. 81-874
as revised by
P.L. 95-561
TITLE XI - PART A, SEC. 1101

AN INFORMATIONAL BOOKLET FOR INDIAN PARENTS AND TRIBAL OFFICIALS



United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20245

IN REPLY REFER TO:

May 24, 1979

Dear Indian Readers:

The passage of Title XI of the Education Amendments of 1978 (P.L. 95-561) marked a new era in Indian education. By vesting real authority in Indian school boards which derive this authority from tribal governments, establishing a new hiring system, mandating equitable fund distribution, guaranteeing students' rights and encouraging alternative styles of education, the Act paves the way for true Indian control.

In my endeavors to direct the Bureau of Indian Affairs education programs and to implement this legislation successfully, my sincere desire is to involve Indian people at all levels--students, parents, tribal leaders, educators--in the decision making process. Together, we shall further our efforts to provide the highest quality education for our Indian students, whetner in BIA, public private or tribal schools.

With thoughtful input from you, expressing your concerns and priorities, our mutual goals can most surely be accomplished. The purpose of this booklet is to provide information as to how this can be accomplished.

Sincerely,

Earl J. Barlow

Earl J. Barlow, Director
Office of Indian Education Programs

TASK FORCE NO. 1 STATEMENT

We believe that every Indian child has an inherent right to the best possible educational opportunities available. We believe that various portions of Public Law 95-561, including Part A of Title A of Title XI, provide the legal support necessary to significantly improve educational opportunities for Indian children.

We do not claim to be experts in governmental regualtions, in state or federal financing of education, or interpreters of the law. There is a strong possibility that the proposed regulations which we have drafted may conflict with the interests of some tribal governments and with the procedures followed by some state governments and some local educational agencies. If such conflicts arise, we ask all concerned to consider first the welfare and the rights fo the children involved as we tried to do.

In order to make these regulations as meaningful and as appropriate as possible for the persons directly affected, we have designed a procedure to involve as many persons as possible in consideration of their impact prior to the formal publication.

We have requested that public sessions be held at sites as convenient as possible to the Indian people directly affected by these regulations. At these hearings, and through the dissemination of printed information, we will try to explain fully what Impact Aid is, and how it, especially with the new law, relates to Indian education.

PREFACE

Task Force No. 1 was established through actions of the Office of the Assistant Secretary for Indian Affairs in order to provide Indian input in the development of regulations for implementation of Sec. 1101 (d), Part A, Title XI of P. L. 95-561. The members of the Task Force were selected from nominations submitted by tribes, tribal organizations, national Indian organizations, and interested individuals.

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INTRODUCTION

This booklet has been prepared to inform Indian parents, tribal officials, and other interested persons about Impact Aid (P.L. 81-874) and the changes made by the Education Amendments of 1978 (P.L. 95-561). The information included in this booklet focuses upon the relationship of Impact Aid to the educational programs offered by public schools for children who reside upon Indian lands.

P.L. 95-561 has two sections which revise P.L. 81-874. Title X of the new law contains provisions which revise Impact Aid for all eligible schools and provides for the overall operation of the program. Title XI, Part A, contains special rules and funding authorization for those schools which educate children who reside upon Indian lands. This section contains new rules relating to the involvement of Indian parents and tribes in the operation of educational programs serving their children.

The new law and the regulations which are being drafted will have a significant effect upon the education of Indian children. It is essential that Indian parents and tribal officials understand what Impact Aid is, how it operates, and what the changes made by P.L. 95-561 mean. In order for the new law and the proposed regulations to be effective, Indian parents and tribal officials must express their views concerning them and become actively involved in seeing that the intent of the law is fulfilled.

PERCENTAGE OF FEDERAL LAND IN EACH STATE

		Federal %
A. NORTHEAST -		2.2
1.	Connecticut	0.3
*2.	Maine	0.7
3.	Massachusetts	1.9
4.	New Hampshire	12.3
5.	New Jersey	2.7
6.	New York	0.8
7.	Pennsylvania	2.3
8.	Rhode Island	1.1
9.	Vermont	4.8

		Federal %
B. MIDWEST -		4.1
*1.	Illinois	1.6
2.	Indiana	2.1
*3.	Iowa	0.6
*4.	Kansas	1.4
*5.	Michigan	9.4
*6.	Minnesota	6.7
7.	Missouri	4.9
*8.	Nebraska	1.4
*9.	North Dakota	5.3
10.	Ohio	1.3
*11.	South Dakota	6.9
*12.	Wisconsin	5.3

		Federal %
C. SOUTH -		5.0
1.	Alabama	3.5
2.	Arkansas	9.9
3.	Delaware	3.2
*4.	Florida	10.4
5.	Georgia	5.9
6.	Kentucky	5.4
7.	Louisiana	3.7
8.	Maryland	3.3
*9.	Mississippi	5.5
*10.	North Carolina	6.4
*11.	Oklahoma	3.5
12.	South Carolina	5.9
13.	Tennessee	6.7
14.	Texas	1.9
15.	Virginia	9.2
16.	West Virginia	7.0

		Federal %
D. WEST -		53.5
*1.	Alaska	96.4
*2.	Arizona	43.7
*3.	California	45.4
*4.	Colorado	36.1
5.	Hawaii	9.9
*6.	Idaho	66.8
*7.	Montana	29.6
*8.	Nevada,	85.8
*9.	New Mexico	33.6
*10.	Oregon	52.4
*11.	Utah	64.9
*12.	Washington	29.1
*13.	Wyoming	48.1

*States which have federally recognized Indian Lands.

SOURCE: General Services Administration

I. WHAT IS IMPACT AID?

Public Law 81-874, the Impact Aid Act, was created by Congress in 1950 to provide financial assistance to public school districts which educate the children of military personnel and other federal employees and which include tax-exempt military bases or other federal property within their district boundaries.

Within the United States, the Federal Government owns or controls 33.7% of all of the land, a total of 742 million acres. This federal land includes national parks, national forests, military bases, Indian reservations, etc. The Federal Government also employs some 4.9 million people, including military and civilian personnel.

Impact Aid provides financial support to 4,100 of 16,000 public school districts in the country, affecting the education programs of 2.4 million children. The funds go to 432 of the 435 Congressional districts in the nation. The total 1979 fiscal year allocation for Impact Aid is over $786 million.

Funds received from the Impact Aid programs are "in lieu" of the local property taxes that would be collected if the property was not owned by the Federal Government. The funds are included in the general operating budgets of the school districts. The law does not require any specific use of these funds, except that they cannot supplant or replace funds that the district is entitled to under any state aid program.

Although some Indian children originally benefitted from the Impact Aid program, there was concern about duplication between this program and the Johnson-O'Malley program. In 1958, the Impact Aid program was amended to specifically include public schools educating children residing upon Indian lands, since these lands are also tax-exempt. At the same time, the Johnson-O'Malley program was redesigned to be a supplemental program, instead of a basic support program, to provide funds for special services to meet the unique educational needs of Indian students.

Public Law 81-874 has been reauthorized periodically and numerous revisions have been made, primarily resulting in expansion of the program. The Education Amendments of 1974, Public Law 93-380, included two revisions of Impact Aid which directly affected public schools educating children residing upon Indian lands.

These amendments allowed any children who resided upon Indian lands to be counted in the "A" category for full entitlement, regardless of where their parents were employed. The amendments also provided an additional 50% of the per pupil entitlement amount for Indian children receiving special education services. These two important changes took effect in 1976.

P.L. 95-561, the Education Amendments of 1978, has reauthorized the Impact Aid program for five more years. A number of significant changes have been made, especially in regard to public school districts which educate eligible Indian students.

PERCENTAGE OF SCHOOL REVENUE, 1978-79
(STATES RECEIVING IMPACT AID DUE TO INDIAN LAND)

	Federal	State	Local		Federal	State	Local
1. Alaska	15.3	66.0	18.7	14. Montana	8.4	51.5	40.1
2. Arizona	8.3	42.9	48.8	15. Nebraska	6.9	16.8	76.3
3. California	12.0	64.9	23.1	16. Nevada	4.8	34.0	61.2
4. Colorado	4.9	36.9	58.2	17. New Mexico	16.3	67.0	16.7
5. Florida	9.4	56.1	34.5	18. North Carolina	14.5	67.0	18.6
6. Idaho	12.5	46.9	40.5	19. North Dakota	8.4	46.1	45.6
7. Illinois	10.7	39.6	49.7	20. Oklahoma	11.8	55.7	32.5
8. Iowa	5.8	38.9	55.3	21. Oregon	7.2	30.3	62.5
9. Kansas	12.2	46.7	41.1	22. South Dakota	12.5	14.6	73.0
10. Maine	7.6	47.1	45.2	23. Utah	8.8	54.0	37.2
11. Michigan	6.5	44.8	48.7	24. Washington	9.5	61.3	29.2
12. Minnesota	5.9	54.5	39.6	25. Wisconsin	4.3	36.5	59.2
13. Mississippi	24.7	52.4	22.9	26. Wyoming	6.2	28.1	65.7

States With No Impact Aid Due to Indian Lands

	Federal	State	Local		Federal	State	Local
1. Alabama	13.6	66.2	20.2	13. New Hampshire	5.1	9.4	85.5
2. Arkansas	15.9	51.9	32.2	14. New Jersey	3.8	40.6	55.6
3. Connecticut	6.5	28.5	65.0	15. New York	4.3	39.8	55.9
4. Delaware	10.9	66.2	23.0	16. Ohio	5.2	43.2	51.6
5. Georgia	13.8	51.7	34.5	17. Pennsylvania	8.8	44.0	47.2
6. Hawaii	15.9	80.5	3[illegible]	18. Rhode Island	6.1	42.7	51.3
7. Indiana	5.7	53.5	40.7	19. South Carolina	14.2	54.5	31.3
8. Kentucky	10.9	71.6	17.5	20. Tennessee	12.3	48.6	39.1
9. Louisiana	16.0	56.0	28.0	21. Texas	10.5	48.6	40.9
10. Maryland	7.2	40.5	52.3	22. Vermont	6.5	27.1	66.4
11. Massachusetts	4.2	37.5	58.3	23. Virginia	9.4	39.9	50.7
12. Missouri	10.6	36.2	53.2	24. West Virginia	10.1	61.2	28.7

OVERALL AVERAGES

Federal	State	Local
9.6	46.9	43.5

This is the first time that state aid has exceeded the amount provided for education from local sources.

SOURCE: National Education Association

B. WHY IS IMPACT AID IMPORTANT TO SCHOOLS?

A national survey of public school financing shows that there are two major sources of revenue that schools rely on for basic operational funds. Traditionally, the major source of revenue has been the local levy, or the tax upon property within the school district. The other major source of revenue has been state aid. During the 1978-79 school year, for the first time in the history of American public schools, the state aid programs provided more funds for education than local taxes on a national average (49.9% to 43.5%). The federal government provides only 9.6% of school operational funds nationally.

Using national averages, a school budget would show the following sources of revenue:

State Aid	Local Income	Federal Aid
46.9	43.5%	9.6%

A district cannot collect property taxes from federally owned or controlled property. Thus, any district which has federally owned or controlled property within its boundaries will either have less revenue from property taxes or have to impose a higher tax rate upon the non-federal property.

Realizing that the existence of federally owned or controlled property imposed a burden upon school districts and local property owners, Congress enacted P.L. 81-874 to provide federal aid to replace the taxes that could not be levied upon the federal property. This aid is based upon the number of enrolled students eligible for Impact Aid.

The amount of federal aid, and its percentage of the total school district budget, will vary widely, depending upon the assessed valuation of the district, the total enrollment and other factors. Impact Aid is vitally important for the operation of some districts, whereas in others it simply enhances the overall operation.

Impact Aid is particularly important for school districts located upon Indian reservations, since such districts normally have very little taxable property and very low assessed valuations.

An example of how important Impact Aid can be is demonstrated by the budget of a public school district located on an Indian reservation in Arizona.

The percentage of revenue for this district from various sources for 1978-79 is:

State Aid	Local Income	Federal Aid
51%	11%	38%

Only 1% of the land within this school district is privately owned and taxable. There are only 40 taxpayers in the district, and utility companies pay 99% of the taxes. The district has a tax rate of over $8 per $100 assessed valuation for 1978-79, well above the state average, yet this rate provides less than one-fourth the percentage of local income that is true for an average school districts.

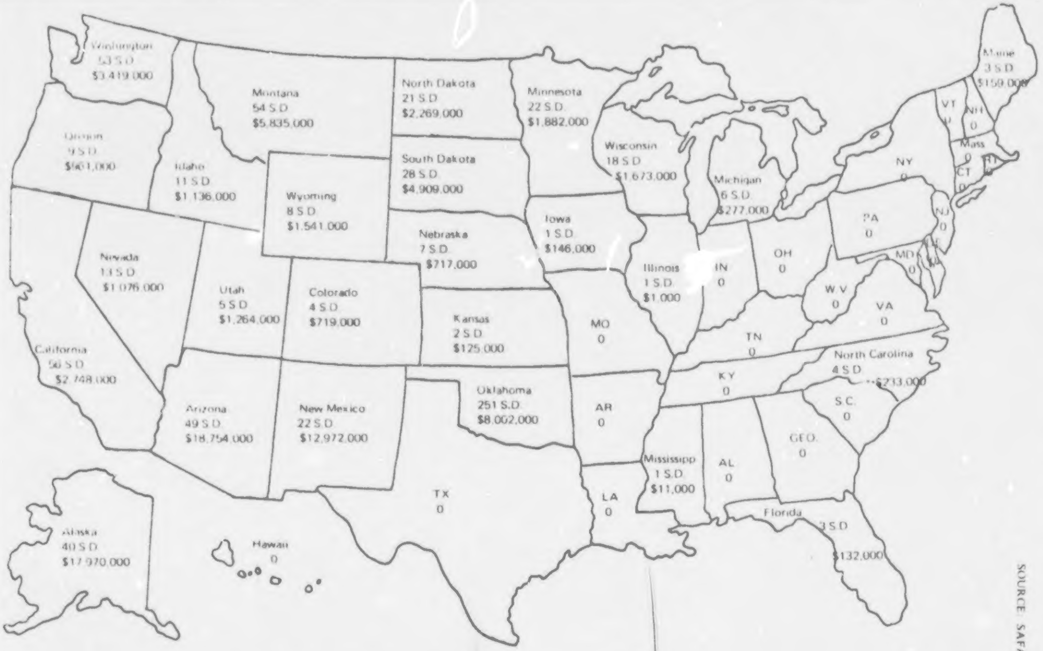
In actual dollar amounts, the sources of income for 1978-79 for this district are:

State Aid:	$2,955,729	51%
Local Taxes:	577,256	10%
Other Local:	34,635	1%
P.L. 81-874:	2,200,000	32%
TOTAL		$5,767,620

A similar situation exists for many other public school districts located on or near Indian lands. These districts have low assessed valuations and few taxpayers. They cannot provide adequate educational services through the revenue received from tax levies and state aid.

Impact Aid funds are not so vital for other school districts that have federal-- but not Indian-- land within their boundaries since most of them have higher assessed valuations and more income from property taxes. However, many of these districts, because they enroll eligible students, receive substantial amounts of Impact Aid.

For the 1978-79 school year, or the 1979 federal fiscal year, a total of $786,100,000 was appropriated for P.L. 81-874. Of this amount, $36,500,000 was for Federal schools (this does not include BIA schools), and $12 million was for schools affected by natural disasters. The balance, or $710,600,000 was for public schools eligible for Impact Aid. Of this amount, $83 million (later revised upwards to $96 million) was for the 692 school districts in 26 states which educate children who reside upon Indian lands. It is expected that, under the new guidelines of P.L. 95-561, these districts will receive $132 million during the 1979-80 school year.


Washington
53 S.D.
$3,419,000
Montana
54 S.D.
$5,835,000
North Dakota
21 S.D.
$2,269,000
Minnesota
22 S.D.
$1,882,000
Maine
3 S.D.
$159,000
VT
0
NH
0
Oregon
9 S.D.
$961,000
Idaho
11 S.D.
$1,136,000
South Dakota
28 S.D.
$4,909,000
Wisconsin
18 S.D.
$1,673,000
Mass
0
RI
NY
0
CT
0
Michigan
6 S.D.
$277,000
Wyoming
8 S.D.
$1,541,000
Iowa
1 S.D.
$146,000
PA
0
NJ
0
Nebraska
7 S.D.
$717,000
Nevada
13 S.D.
$1,076,000
MD
0
OH
0
Illinois
1 S.D.
$1,000
IN
0
Utah
5 S.D.
$1,264,000
Colorado
4 S.D.
$719,000
W.V.
0
VA
0
Kansas
2 S.D.
$125,000
MO
0
TN
0
California
56 S.D.
$2,748,000
North Carolina
4 S.D.
$213,000
KY
0
Oklahoma
251 S.D.
$8,002,000
Arizona
49 S.D.
$18,754,000
New Mexico
22 S.D.
$12,972,000
AR
0
S.C.
0
GEO.
0
Mississipp
1 S.D.
$11,000
AL
0
TX
0
LA
0
Florida
3 S.D.
$132,000
Alaska
40 S.D.
$17,970,000
Hawaii
0

S.D. SCHOOL DISTRICTS RECEIVING 874 FUNDS FOR INDIAN LANDS
$ AMOUNT OF ENTITLEMENT FY 79

SOURCE: SAFA, USOE

P.L. 874 FUNDS TO PUBLIC SCHOOLS SERVING STUDENTS LIVING ON INDIAN LANDS

STATE	NO. SCHOOL DISTRICTS	TOTAL $$
*1. Alaska	40	$17,970,000
2. Arizona	49	18,754,000
3. California	56	2,748,000
4. Colorado	4	719,000
5. Florida	3	132,000
6. Idaho	11	1,136,000
7. Illinois	1	1,000
8. Iowa	1	146,000
*9. Kansa	2	125,000
*10. Maine	3	159,000
11. Michigan	6	277,000
12. Minnesota	22	1,882,000
13. Mississippi	1	11.000
14. Montana	54	5,835,000
15. Nebraska	7	717,000
16. Nevada	13	1,076,000
*17. New Mexico	22	12,972,000
18. North Carolina	4	233,000
*19. North Dakota	21	2,269,000
20. Oklahoma	251	8,002,000
21. Oregon	9	961,000
22. South Dakota	28	4,909,000
23. Utah	5	1,264,000
24. Washington	53	3,419,000
25. Wisconsin	18	1,673,000
26. Wyoming	8	1,541,000
26 States	692 S. D.	$88,931,000

* These five states have equalization formulas which have been approved by the U.S. Office of Education.

** These were the initial allocation figures. The final amount was $96,000,000. Thus, most of the figures shown above were adjusted upwards.

SOURCE: SAFA, USOE

C. HOW DOES IMPACT AID OPERATE?

1. Each public school district which educates children who live on Indian land or other federal property and intends to apply for Impact Aid must set a date, usually in early October, when it will officially count all enrolled students and identify those who are eligible for Impact Aid funds. This process includes the documentation of where the parents reside and where they work. The completed P.L. 81-874 application form is submitted in January.

In the spring, the district receives a check for 75% of the amount of Impact Aid it qualifies for, based upon the original application. In September, a final report is compiled showing the final enrollment figures for the previous year. Once any differences between it and the original application are computed, the district receives its final check from the government. This usually arrives in December and is for approximately 25% of the total, depending upon any changes in eligible student enrollment.

The cash flow of P.L. 81-874 funds has always been a problem for some school districts since they only have 25% of the previous year's funds to operate on for most of the school year. A district may request 90% of its entitlement in the first check, but this means it will only receive 10% during the first part of the next year.

Under P.L. 95-561, the cash flow problem may be helped since the new law authorizes the issuing of an amount equal to 75% of the previous year's entitlement 30 days after the start of the new fiscal year, if the district submits a request for such an advance. However, this procedures will depend upon prompt authorization and appropriation of funds by Congress.

2. Classification for Student Eligibility

Students who are eligible to be counted by public schools requesting Impact Aid assistance are grouped into two distinct classifications. The first classification involves students whose parents live on and work on federally owned or controlled property which is tax-exempt. These students are referred to as "A" children.

The second classification involves students whose parents live on but work off of federally owned or controlled property which is tax-exempt or live off such property but work on federally owned or controlled property. These students are referred to as "B" children.

Indian students whose parents live on federally owned or controlled tax-exempt property, regardless of where they work, are counted as "A" children.

How students are classified is important because "A" children are supported at 100% of the entitlement as computed by the public school educating those particular students; "B" children are supported at 50% of that same entitlement.

Public school districts also identify Indian children who receive special education services because these classifications bring to the district funds over and above the basic entitlement.

Some school districts also identify children of military personnel who receive special education services and children whose parents live in low-rent housing because these classifications bring to the district additional Impact Aid funds.

3. Funding Level

There are three different methods which may be used to determine how much Impact Aid the district will recieve for each eligible student. This is called the Local Contribution Rate (LCR).

a. The LCR shall not be less than:

1) 50% of the average per pupil expenditure in the state; or
2) 50% of the average per pupil expenditure nationally.

b. Comparable School Districts Based Upon State Groupings

The state educational agency may recommend groups of comparable school districts based upon legal classifications or other factors in order to determine the LCR.

c. Individually Selected Comparable Districts

If the state does not use group classifications, the state and a school district may submit information regarding five districts, preferably not receiving Impact Aid, which are comparable based upon the following criteria:

1) Legal classification
2) Total ADA
3) Cost per pupil in ADA
4) Grade levels
5) Percent of pupils transported
6) Pupil/teacher ratio
7) Assessed valuation per ADA
8) Ratio of assessed to true value
9) Tax rates
10) Curricula offered
11) Teacher salaries
12) Economic characteristic

The state, in conjuction with the local educational agency, may use the method which will provide the largest LCR.

However, the actual amount of funding received depends upon how much Congress appropriates for Impact Aid and how much is allocated to each section of a complex tier formula.

D. WHAT CHANGES HAVE BEEN CREATED BY P.L. 95-561?

1. Title X - Part A Impact Aid Provisions

Title X of P.L. 95-561 affects the overall implementation of Impact Aid for all schools eligible for funds. The major changes include the following:

a. Authorization for Impact Aid has been extended until 1983.

b. The requirements that districts annually absorb 27% of the Impact Aid funding for "B" children has been repealed.

c. Payment to school districts of 75% of the previous year's entitlement within 30 days of the new federal fiscal year (October 1) is authorized.

d. States which propose to consider P.L. 81-874 funds as local resources must advise the U.S. Commissioner of Education of such intent 60 days before the beginning of the federal fiscal year. Any school district affected by such action must also be notified. School districts and states will be given opportunities for hearings relative to determinations made by the U.S. Commissioner of Education.

e. Hearing rights for any school district adversely affected by an action of the U.S. Commissioner of Education are established.

f. Eligible handicapped students for whom a school district pays tuition for attendance at a private school are to be included in the average daily attendance (ADA) of the resident school district.

g. If the number of "A" children enrolled exceeds 20% (formerly 25%) of the total ADA, the district is considered a "Super Impact" district for funding purposes.

h. No State may require that a vote of qualified voters of a "Super Impact" district be held to determine if the district may spend P.L. 81-874 funds.

i. Free public education for P.L. 81-874 purposes is defined as Kindergarten through grade 12.

j. A Presidential Commission is to be appointed to study the overall effects of Impact Aid.

2. Title XI - Part A Indian Education

Part A, Sections 1101 a-d, of P.L. 95-561 affects any school district that receives Impact Aid funds because it enrolls eligible Indian students. This portion of the law increases funding for these schools and mandates the active involvement of Indian parents.

a. Impact Aid funding for children who reside upon Indian lands is increased to 125% of the normal entitlement. In order to qualify for this increased funding, school districts are required to establish policies and procedures that will ensure:

1) The equal participation of Indian children in the educational programs of the school district;

2) The dissemination of applications, evaluations, and program plans to the parents of Indian children and the Indian tribes involved;

3) The opportunity for parents of Indian children and the Indian tribes involved to present their views regarding the P.L. 81-874 application, including the opporunity to make recommendations concerning the needs of their children and ways by which they can assist their children in realizing the benefits to be derived from the educational programs assisted by the P.L. 81-874 funds;

4) The active consultation and involvement of the parents of Indian children and the tribes affected in the planning and development of programs assisted by Impact Aid funds;

5) The general opportunity for parents of Indian children and representatives of the affected tribes to present their overall views on the educational program, the operation of such programs and the degree of parental participation allowed.

Some of the assurances listed above were required by the Impact Aid law before the enactment of P.L. 95-561. Although the school district officals had to sign these assurances in the application, there was little follow-up by the U.S. Office of Education to ensure that the school district actually put into practice the required actions. Had it been determined that the assurances were not put into practice, there were no penalties involved.

A major change created by P.L. 95-561 is the inclusion in the law of complaint procedures, penalties and options for the affected tribes if the school districts involved do not comply with the law. These new provisions include:

a. A tribe, or its designated agent, may file a written complaint with the U.S. Commissioner of Education (HEW) regarding actions of the school district relative to any of the policies and procedures that are required to be established by this section of P.L. 95-561.

b. When a written complaint is received, the Commissioner of Education is required to do the following within 10 working days:

1) Designate a time and place for a hearing-- the place must be near the school district or near both the affected tribe and the school district;

2) Designate an hearing examiner;

3) Notify the affected tribe and the school district of the time, place, and nature of the hearing and send copies of the complaint to both;

c. The tribe and the school district may present evidence relative to the complaint and submit recommendations.

d. Within 30 days after the hearing, the hearing examiner will make a report to the Commissioner of Education, submitting written findings of fact and recommending remedial action, if necessary.

e. Within 30 days of receiving the hearing examiner's report, the Commissioner of Education will determine, in writing, the appropriate remedial action, if any, to be taken by the school district, the schedule for completion of such action, and the reasons for his decision.

f. The Commissioner of Education will provide the tribe and the school district with copies of the hearing record, the hearing examiner's findings and recommendations, and his own final determination. The final determination of the Commissioner shall be subject to judicial review.

g. The Commissioner of Education will have the discretion to consolidate complaints involving the same tribe or school district.

h. If the school district rejects the determination of the Commissioner of Education, or if the required remedy is not undertaken within the established time and the Commissioner determines that an extension of time will not effectively encourage resolution of the conflict, he shall withhold payment of all funds for which the district is eligible under this section, unless the complaining tribe requests that such funds be released. However, the Commissioner may not withhold such funds during the course of the school year if he determines that such action would substantially disrupt the educational program of the district.

i. If the school district does not undertake the required remedial action and the Commissioner of Education determines that an extension of time will not encourage resolution of the problem, the Secretary of the Interior is to develop regulations that will permit the affected tribes to elect either:

1) Contract with the Bureau of Indian Affairs under Title I of the Indian Self-Determination and Educational Assistance Act (P.L. 93-638) to provide the educational services previously provided by the public school district;

2) Have educational services provided by a Bureau of Indian Affairs school.

These regulations shall also establish procedures whereby the funding necessary to provide the new educational services may be obtained and establish such procedures as are necessary to ensure orderly and e[illegible]s transition in the providing of educational services.

SUMMARY

The primary purpose of Task Force No. 1 is to he[illegible] the regulations which P.L. 95-561 states will be developed by the Secretary of the Interior. Members of the Task Force have also met with representatives of the U.S. Office of Education regarding the regulations being developed for other sections of P.L. 95-561 related to Impact Aid.

A "discussion draft" of proposed regulations is being distributed along with this booklet. Informational hearings are scheduled for 12 different locations to allow as many Indian parents and tribal officials as possible to respond to the proposed regulations and offer their suggestions. The information complied at these hearings will be incorporated, insofar as possible, in the proposed regulations. These will then be published in the Federal Register, after which interested persons will have another 30 days to respond.

It should also be noted that the U.S. Office of Education is planning a series of public hearings as soon as their regulations for Title XI, Part A, Sections 1101, a-c, are published in the Federal Register.

PUBLIC LAW 95-561

TITLE XI

PART A

SECTION 1101 (a-d)

TITLE XI - INDIAN EDUCATION

PART A - Assistance to Local Educational Agencies Amendment to Public Law 874

Sec. 1101 (a) Effective with respect to fiscal years beginning on or after the date of enactment of this Act, section 3(d) (2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by adding at the end thereof the following new subparagraph:

"(D) The amount of the entitlements of any local educational agency under this section for any fiscal year with respect to children who, while in attendance at such agency, resided on Indian lands, as described in clause (A) of section 403(1), shall be the amount determined under paragraph (1) with respect to such children for such fiscal year multiplied by 125 per centum."

(b) Effective with respect to fiscal years beginning on or after the date of enactment of this Act, section 5(a) (2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is repealed and section 5(a) (1) of such Act is redesignated as section 5(a).

(c) Effective with respect to fiscal years beginning on or after the date of enactment of this Act, section 5(b) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by inserting after paragraph (2) (as added by section 1005 of this Act) the following new paragraph:

"(3)(A) Payments of entitlements under section 3(d)(2)(D) of this Act shall be made only to local educational agencies which have, within one year of the date of enactment of this paragraph, or when local educational agencies are formed after such date of enactment, within one year of their formation, established such policies and procedures with respect to information received from Indian parents and tribes as required by this paragraph and which have made assurances to the Commissioner, at such time and in such manner as shall be determined by regulation, that such policies and procedures have been established. The Commissioner shall have the authority to waive this one-year limit for good cause, and in writing to the tribes to be affected.

"(B) Each local educational agency shall establish such policies and procedures as are necessary to insure that–

"(i) Indian children claimed under section 3(a) participate on an equal basis in the school program with all other children educated by the local educational agency;

"(ii) applications, evaluations, and program plans are adequately disseminated to the tribes and parents of Indian children claimed under section 3(a); and

"(iii) tribes and parents of Indian children claimed under section 3(a) are –

"(I) afforded an opportunity to present their views with respect to the application, including the opportunity to make recommendations concerning the needs of their children and the ways by which they can assist their children in realizing the benefits to be derived from the educational programs assisted under this paragraph;

"(II) actively consulted and involved in the planning and development of programs assisted under this paragraph; and

"(III) afforded a general opportunity to present their overall views on the educational program, including the operation of such programs, and the degree of parental participation allowed.

"(C)(i) Any tribe, or its designee, which has students in attendance at a local educational agency may file a written complaint with the Commissioner regarding any action of a local educational agency taken pursuant to, or relevant to, the requirements of subparagraph (B) of this paragraph.

"(ii) Within ten working days from receipt of the complaint, the Commissioner shall–

"(I) designate a time and place for a hearing into the matters relating to the complaint at a location in close proximity to the local educational agency involved, or, if the Commissioner determines there is good cause, at some other location convenient to both the tribe, or its designee, and the local educational agency;

"(II) designate a hearing examiner to conduct the hearing; and

"(III) notify the affected tribe or tribes and the local educational agency involved of the time, place, and nature of the hearing and send copies of the complaint to the local educational agency and the affected tribe or tribes.

"(iii) The hearing shall be held within thirty days of the designation of a hearing examiner and shall be open to the public. A record of the proceedings shall be established and maintained.

"(iv) The complaining tribe, or its designee, and the local educational agency shall be entitled to make recommendations concerning the appropriate remedial actions. Each party to the hearing shall bear only its own costs in the proceedings.

"(v) Within thirty days of the completion of the hearing examiner shall, on the basis of the record, make written findings of fact and recommendations concerning appropriate remedial actions (if any) which should be taken. The hearing examiner's findings and recommendations, along with the hearing record, shall be forwarded to the Commissioner.

"(vi) Within thirty days of his receipt of the findings, recommendations, and record, the Commissioner shall, on the basis of the record, make a written determination of the appropriate remedial action, if any, to be taken by the local educational agency, the schedule for completion of the remedial action, and the reasons for his decision

"(vii) Upon completion of his final determination, the Commissioner shall provide the complaining tribe, or its designee, and the local educational agency with copies of the hearing record, the hearing examiner's findings and recommendations, and the Commissioner's final determination. The final determination of the Commissioner shall be subject to judical review.

"(viii) In all actions under this subparagraph, the Commissioner shall have discretion to consolidate complaints involving the same tribe or local educational agency.

"(D) If the local educational agency rejects the determination of the Commissioner, or if the remedy required is not undertaken within the time established and the Commissioner determines that an extension of the time established will not effectively encourage the remedy required, the Commissioner shall withhold payment of all moneys to which such local agency is entitled under section 3(d)(D) until such time as the remedy required is undertaken, except where the complaining tribe or its designee formally requests that such funds be released to the local educational agency; PROVIDED, that the Commissioner may not withhold such moneys during the course of the school year if he determines that it would substantially disrupt the educational programs of the local educational agency.

"(E) This paragraph is based upon the special relationship between the Indian nations and the United States and nothing in it shall be deemed to relieve any State of any duty with respect to any citizens of that State".

(d) WITHIN ONE YEAR OF THE DATE OF ENACTMENT OF THIS ACT, THE SECRETARY, IN COOPERATION WITH THE COMMISSIONER, SHALL PROPOSE AND PROMULGATE SPECIAL REGULATIONS WHICH WILL PROVIDE THAT WHERE A LOCAL EDUCATIONAL AGENCY DOES NOT UNDERTAKE THE REMEDIAL ACTION REQUIRED BY THE COMMISSIONER UNDER SECTION 5(b)(3)(C)(vi) OF THE ACT OF SEPTEMBER 30, 1950 (PUBLIC LAW 374, EIGHTY-FIRST CONGRESS) AND THE COMMISSIONER DETERMINES THAT AN EXTENSION OF TIME WILL NOT EFFECTTIVELY ENCOURAGE THE REMEDY, THE AFFECTED TRIBES MAY ELECT TO CONTRACT WITH THE BUREAU UNDER TITLE I OF THE INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT TO PROVIDE EDUCATIONAL SERVICES PROVIDED BY THE LOCAL EDUCATIONAL AGENCY OR ELECT TO HAVE SUCH SERVICES PROVIDED BY A BUREAU OF INDIAN AFFAIRS SCHOOL. SUCH REGULATIONS SHALL ALSO ESTABLISH PROCEDURES WHEREBY THE FUNDING NECESSARY TO PROVIDE SUCH EDUCATIONAL SERVICES MAY BE OBTAINED. AND ESTABLISH SUCH PROCEDURES AS ARE NECESSARY TO INSURE ORDERLY AND EXPEDITIOUS TRANSITION IN PROVISION OF EDUCATIONAL SERVICES.

(e) Effective with respect to fiscal years beginning on or after the date of the enactment of this Act, section 5(c)(2)(A) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as amended by section 1007 of this Act, is amended by redesignating divisions (ii) through (vi) as divisions (iii), through (vii), respectively, and by adding after division (i) the following new division:

"(ii) to each local educational agency which provides free public education for children who reside on Indian land, as described in clause (A) of section 403(1), which equals 75 per centum of the amount to which such agency is entitled under section 3(d)(2)(D);".

PROPOSED REGULATIONS
P. L. 95-561, TITLE XI, PART A, Sec. 1101(d)

PART 000--

Subpart A - General Provisions

Section

§000.1 Purpose and Scope

The purposes of the regulations in this Part are to establish formal procedures which Indian tribe(s) will follow should the tribe(s) elect to have educational services contracted through the Bureau of Indian Affairs under Title I of the Indian Self-Determination and Educational Assistance Act or to have such services provided by a Bureau of Indian Affairs school for children for whom such services were previously provided by local education agencies and to insure an orderly, expeditious transition including such funds as are necessary for the provision of educational services.

§000.2 Definitions

As used in this Part:

(a) The term "Act" means the Educational Amendments of 1978 (Public Law 95-561, 92 Stat. 2143).

(b) The term "Agency" means an organizational unit of the Bureau of Indian Affairs which is established for direct support of tribal governments on reservations and in selected off-reservation locations.

(c) The term "Agency School Board" means a body, the members of which are appointed by the school boards of the schools located within such agency, and the number of such members shall be determined by the Secretary in consultation with the affected tribes, except that, in agencies serving a single school, the school board of such school shall fulfill these duties.

(d) The term "Agency Superintendent of Education" or "Superintendent" means the Bureau official in charge of Bureau education programs and functions in an agency and who reports to the Director.

(e) The term "Area Director for Education" means the Bureau official in charge of Bureau Education programs and functions in a Bureau Area Office and who reports to the Director.

(f) The term "Assistant Secretary" means the Assistant Secretary for Indian Affairs, Department of the Interior, or his/her designee.

(g) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

(h) The term "Capital Outlay" means the total expenditures that result in the acquisition of fixed assets or additions to fixed assets, such as land, buildings, and equipment.

(i) The term "Commissioner" means the Commissioner of Education, United States Office of Education, Department of Health, Education, and Welfare.

(j) The term "Director" means the Director of the Office of Indian Education programs for the Bureau of Indian Affairs, or his/her designee.

(k) The term "Days" means calendar days.

(l) The term "Eligible Students" means Indian students from age 3 years through grade 12 who shall be eligible if they are one-fourth or more degree Indian blood and recognized by the Secretary as being eligible for Bureau services.

(m) The term "Financial Plan" means a plan of services to be provided by each Bureau school.

(n) The term "Education Plan" means a comprehensive plan for the programmatic and fiscal services of and accountability for the education of eligible Indian students under this Part.

(o) The term "Indian Tribe" means any Indian tribe, band, nation rancheria, pueblo, colony, or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is federally recognized as eligible by the United States Government through the Secretary for the special programs and services provided by the Secretary to Indians because of their status as Indians.

(p) The term "Indian" means a person who is a member of an Indian tribe.

(q) The term "Indian Organization" means any group, association, partnership, corporation, or other legal entity owned or controlled by a federally recognized Indian tribe or tribes, or a majority of whose members are members of federally recognized Indian tribes.

(r) The term "Local Educational Agency" means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent, or other school district located within a State, and includes any State agency which directly operates and maintains facilities for providing free public education.

(s) The term "Local School Board", when used with respect to a Bureau school, means a body chosen in accordance with the laws of the tribe to be served or, in the absence of such laws, elected by the parents of the Indian children attending the school, except that in schools serving a substantial number of students from different tribes, the members shall be appointed by the governing bodies of the tribes affected; and the number of such members shall be determined by the Secretary in consultation with the affected tribes.

(t) The term "Operational Support or Current Operating Expenditure" means those expenditures including educational expenditures for the daily operation of the school program such as expenditures for administration, instruction, attendance and health services, transportation, operation and maintenance of plant and fixed charges.

(u) The term "Public Law 93-638" means the Indian Self-Determination and Education Assistance Act (Public Law 93-638, 88 Stat. 2203).

(v) The term "Resolution" means the formal manner in which the tribal government expresses its legislative will in accordance with its organic document; a written expression adopted pursuant to tribal practices will be acceptable.

(w) The term "Secretary" means the Secretary of the Interior.

(x) The term "Supervisor" means the individual in the position of ultimate authority at a Bureau school.

(y) The term "Tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(z) The term "Tribal Designee" means any individual or group, such as an Education Committee, authorized by the tribal governing body to act on its behalf in regard to these regulations; if the majority of the students enrolled in an LEA reside upon the lands of one tribe and all members of the duly elected school board are members of that tribe, the school board shall be considered the tribal designee for the purpose of this Act.

§000.3 Revision or Amendments of Regulations

In order to make any substantial revision or amendments to regulations in this Part, the Secretary shall take the following action:

(a) Annually consult with Indian tribes about the need for revision or amendment and consider their views in preparing the revision or amendment.

(b) Publish the proposed revisions or amendments in the Federal Register as proposed rulemaking to provide adequate notice to and receive comments from all interested parties.

(c) After consideration of all comments received, publish the regulations in the Federal Register in final form no later than 30 days before the date they are made effective.

§000.4 Statement of Policy

In recognition of the special educational needs of children of Indian families and the impact that concentration of low-income families has on the ability of local educational agencies to support adequate educational programs, the Bureau hereby declares it to be the policy of the Bureau of Indian Affairs to provide financial assistance as set forth under this Part to a tribe(s) to build, expand, and improve their educational programs by various means which contribute particularly to meeting the special educational needs of educationally deprived children. Further, in recognition of the special educational needs of Indian children, the Bureau hereby declares it to be the policy of the Bureau of Indian Affairs to provide financial assistance to help meet the special educational needs of Indian children.

Subpart B - Pre-Application Process

Section

§000.5 Submission of Complaints by Tribe or Designee

(a) When a tribe or its designee files a written complaint with the Commissioner regarding any action of a local educational agency taken pursuant to, or relevant to the requirements of 1101(B), the appropriate Bureau office will take immediate steps to maintain a chronological record of events.

(b) The Commissioner, on being notified and upon receiving a formal complaint will provide said copy of said complaint to appropriate Bureau officials.

(c) The Bureau records should include the following:

(1) The official complaint by the tribe(s) of its designee(s),

(2) Adequate account of any time, place, findings, and proceedings relevant pursuant to 1101(c), and

(d) Appropriate Bureau officials shall monitor all proceedings pursuant to Sec. 1101(c) and provide written status reports to the Director of Indian Education Programs when appropriate.

§000.6 Pre-Application Technical Assistance

(a) Appropriate Bureau officials, upon notification of the filing of a formal complaint, shall offer and provide technical assistance to affected tribe(s) when requested.

(b) Upon request of a tribal organization or its designee, the Bureau shall make available any information requested and such other information and assistance needed to prepare and present evidence on matters relevant to the complaint.

(c) The Bureau shall provide assistance on request by local educational agency, state, or other federal agencies to help resolve complaints, but at no time will the Bureau advocate in opposition to a tribe or its designee.

(d) When the local educational agency rejects the determination of the Commissioner pursuant to 1101(D), the Bureau will offer technical and financial assistance to a tribal organization to assist them in:

(1) Determining the appropriateness of contracting under Title I of the Indian Self-Determination and Education Assistance Act or to have educational services provided by a Bureau of Indian Affairs school.

(2) Developing an effective education program, a facilities design (construction when appropriate), and a plan of operation.

(3) Preparing technical parts of the contract application when appropriate.

(4) Assist tribal organizations in obtaining technical assistance from other federal agencies.

(e) The Bureau shall provide, to the extent that funds are available, technical assistance to the tribal organizations from sources including but not limited to:

(1) Organizations under contract with the Bureau.

(2) Grants under Part 272 of CFR 25.

(3) Other technical assistance resources funded through or by the Bureau.

(4) Funding from other federal agencies.

Subpart C - Application Process

Section

§000.7 Eligibility

Any tribal government or its designee affected under 1101(d) of P. L. 95-561 is eligible to contract with the Bureau under Title I of the Indian Self-Determination and Education Assistance Act to provide educational services previously provided by the local educational agency or elect to have such services provided by a Bureau of Indian Affairs school.

§000.8 Application Information

Application instructions and related materials may be obtained from Agency Superintendent of Education, Area Director for Education, and the Director of the Office of Indian Education Programs.

§000.9 Contract under Title I of the Indian Self-Determination and Education Assistance Act

(a) A tribal government or its designee entering into a contract with a Bureau under this Part is required to meet the requirements under 25 CRF, Parts 271.14 and 271.18.

(b) In addition to the requirements under paragraph (a) of this section, the tribal governing body will conduct a referendum which will further authorize the tribal governing body to elect to contract under Title I of the Indian Self-Determination and Education Assistance Act by resolution.

(c) The resolution shall include the results of the vote (the number for and against), the date the resolution was approved, and signature of person(s) authorized to certify the accuracy of the information contained in the resolution.

(d) To be eligible to vote on the referendum will require the following:

(1) Member of tribe affected, and

(2) Parents of children attending the affected local education agency.

§000.10 Contract Information

Contract information under this Part in addition to requirement set forth in CFR 25, Parts 271.14 and 271.18 shall contain the following information:

(a) Estimated number of eligible Indian students who will receive benefits or services from the contract, based on available data including the following but not limited to:

(1) Number of students by age, grade, and special educational needs.

(2) Number of students to include ages 0-21.

(3) A demographic projection for the next 10 years.

(4) A comprehensive community development projection for the next 10 years.

(5) Transportation route to accomodate affected students.

(b) Provide an education plan containing goals and objectives which adequately address the educational needs of the Indian students to be served by the contract, and comply with all applicable provisions of Part B, Title XI, P. L. 95-561.

(c) Provide written information regarding specialized training, workshops, and technical assistance required to contract under this Part.

(d) Tribal government(s) or its designee must comply with the following requirements to obtain contracts under this Part.

(1) The requirements in CFR 25, Parts §27.1 through 271.27, 271.41 through 271.52, 271.54, 271.61 through 271.66, and 271.81 through 271.84 shall apply to such contracts with tribal organizations.

(2) The requirements in 41 CFR, Part 14H-70, shall apply to such contracts with tribal government(s) or its designee.

§000.11 Educational Services

Any tribal government or its designee affected under 1101(d) of P. L. 95-561 may request educational services to be provided by Bureau school(s).

(a) Tribe(s) affected under this Part will be required to submit a resolution to the appropriate Agency Education official(s) as required under Sec. §000.9 of this Part.

(b) Upon receipt of a resolution, the Bureau will take immediate steps to ascertain the number of students affected under this Part as required under Sec. §000.10.

(c) The Bureau will make every effort to place affected students in existing Bureau school with the consent of each parent; if no school facilities exist and parents require their children to be educated on a day basis, the Bureau will do the following:

(1) Locate and equip existing temporary facilities;

(2) Provide immediate plan for construction;

(3) Provide short and long-range educational plans for providing educational services.

Subpart D - Funding Provisions

Section

§000.12 Operational Support

(a) Funds for operational support will be provided based upon the uniform direct funding formula for allocations to Bureau of Indian Affairs schools as established under Sec. 1128 and 1129 of P. L. 95-561.

(b) Funds for capital outlay and debt retirement will be provided at a rate not less than 15% of the school's overall operational budget, based upon documented needs of the students to be served.

(c) A request for a supplemental appropriation, based upon the projected proposed Indian enrollment and the uniform direct funding formula, shall be submitted to Congress for approval.

Based upon the projected school educational plan, the Secretary shall submit a supplemental appropriation request to Congress for the operation and construction of needed services and facilities.

Subpart E - Construction

Section

§000.

(a) For each construction project, the Secretary shall provide, upon request from the affected tribe, technical assistance in developing comprehensive educational specifications, including such information as philosophy, educational goals, demographic information, curriculum, teaching methods, class size, spatial relationships, operational logistics, staffing adjunct facility requirements, and a projected yearly operational cost, consistent with the guidelines established under Part B, Section 1121 of P. L. 95-561.

(b) Provide technical assistance to the tribe in developing comprehensive facility specifications, including land site acquisition and development. The facility specifications shall provide such information as environmental impact statements, architectural/engineering features, facility space relationships, occupancy, special equipment, regulatory construction data, and the total construction/acquisition cost estimate. All facility specifications shall meet the construction standards applicable to federal requirements, including those delineated under Section 1125 of P. L. 95-561.

(c) All data under (a) and (b) of this Subpart shall be submitted to the appropriate agency official for review, comment, and recommendations and submitted to the Secretary within 30 days from initial receipt of the tribal submission to the agency.

(d) Based upon the submitted documents detailing all necessary information regarding the requested facility construction of the tribe, the Secretary shall promptly submit a supplemental appropriation request or include within the annual Bureau appropriation a line item request to Congress for the identified construction funds.

(e) The Secretary may request funds for temporary facilities and equipment as determined necessary to provide adequate educational facilities and services pending appropriation of funds for permanent facilities.

(f) Funding for construction under this Part shall be separate from any other existing construction priority listing or funding formula.

Subpart F - General Contract Requirements

Section

§000. Use of Government Property

(a) In carrying out a contract under this Part, the Director or appropriate agency official(s) shall, whenever possible, permit a tribal contractor to use existing buildings, facilities, and related equipment and other personal property owned by the Bureau under its jurisdiction. The use of Bureau property shall be provided for in the contract agreement.

(b) Property or facilities to be used under this contract must conform to the minimum standards established by the Occupational Safety and Health Act of 1970 (84 Stat. 1590), as amended (29 USC 651).

§000. Wage and Labor Standards

(25 CFR, Part §271.43)

§000. Indian Preference

(25 CFR, Part §271.44)

§000. Liability and Motor Vehicle Insurance

(25 CFR, Part §271.45)

§000. Record Keeping

(25 CFR, Part §271.46)

§000. Records--Access to and Retention

(25 CFR, Part §271.47)

§000. Freedom of Information

(25 CFR, Part §271.48)

§000. Annual Reporting

(25 CFR, Part §271.49)

§000. Privacy Act Requirements

(25 CFR, Part §271.56)

Mr. **Kildee**. I think it is an excellent publication.

Mr. **Hinson**. That completes my questions.

Mr. **Kildee**. I think you and Mr. Barlow are to be commended on this work.

Mr. Barlow, I think it is a very useful aid.

Mr. **Kildee**. Mr. Lavis, could you describe for the record what BIA's role will be in helping the Indian tribes fulfill their obligations and exercise their rights under part A of title XI of 95-561?

Mr. **Lavis**. Mr. Chairman, I would like to ask Dr. Barlow to respond also.

In terms of policy, we see our role here as we do in many other programs as an advocate role. We recognize the opportunities here for Indian parents and tribal governments to play a larger role in the education of their children. So the general policy is that we are going to play an advocate role to advise them, to inform them, to indicate to them as clearly as possible what their rights and responsibilities are in this legislation.

I must indicate that with November 1 fast approaching, I am very concerned about where we stand on that issue. Notwithstanding all the rules and regulations, we have to be conscious of what life is like on that reservation level. We are going to have to do a far better job than we have done so far in advising tribal governments of all the parameters involved here. Probably part of that responsibility rests with HEW, a great deal rests with us.

Specifically all we have done is held informational seminars, 12 throughout the country. We will be publishing comments regarding section 1101, and we published this pamphlet. Those are important steps, but there is still in my mind more to be done. It is going to take some time to educate people.

What we require now is a major training effort perhaps shared jointly between OE and ourselves with local agencies and tribal governments. We have to get down to where we educate people and let them know what it is going to be involved at the grassroots level. No matter what we do at this level in writing all these rules and regulations, if it isn't understood. We will have far more misunderstandings and far more complaints being filed and maybe some disruption to the educational process which I think we all want to avoid.

The objective here is to give Indian parents and tribal governments a chance to influence educational outcomes. We have to strengthen the tribal governments or parent committees or school boards in terms of understanding their relationship. They clearly understood Johnson-O'Malley, but their relationship to this one is new. It is very critical that we do this thing right at the beginning.

Mr. **Kildee**. I think you are right. When I was visiting the Pueblos and Hopis and Navajos, you could feel both in this area and in the new Indian input into the BIA schools a sense of excitement, that this was a new day coming for Indian education. At the same time there was a concern about having sufficient knowledge to adjust to these changes.

I think that is really important, that both your agencies keep that in mind. I think there is new hope out there because they recognize that the Congress has given them a new charter, both in the BIA schools and in the public schools. However, they are very anxious to have accurate and adequate information so they can follow this new charter.

Mr. **Lavis**. I would like to ask Mr. Barlow, a former superintendent of schools in Montana—and if there is anybody at grassroots level, he is it—to comment.

STATEMENT OF EARL BARLOW, DIRECTOR, OFFICE OF INDIAN EDUCATION PROGRAMS, BUREAU OF INDIAN AFFAIRS

Mr. **Barlow**. Before I respond specifically to your question about the role of the Bureau in helping Indian tribes under part A, I testified during the early hearings on this concept. One of the things we talked about was the fact that the majority, about 75 percent of our Indian children, attend public schools in this country. The concern that was expressed to this committee at that time was that we were concerned about the lack of the Indian voice in the education and welfare of the children in public schools.

We specifically asked if there could be some mechanism by which the Indian people could gain this voice through Public Law 81-874 and gain some control over the expenditure of these funds.

I think that part A certainly attempts to come to grips with that.

Also, I am pleased to tell you that as a result of the work of this committee and the testimony to which you reacted some States have taken measures already to attempt to remedy some of the concerns that were voiced.

For example, in my home State of Montana the State no longer require a vote on the expenditure of Impact Aid funds. That used to be a requirement as a result of an attorney general's decision that has now been reversed. We do appreciate that.

Specifically, the Bureau's role in part A is spelled out in section 1101(d). Within 1 year we are required to have our special regulations which will provide that where an LEA does not undertake remedial action required by the Commissioner, the affected tribes may elect to contract with the BIA to provide educational services or elect to have such services provided by a BIA school. Also, the regulations will establish procedures for funding and transition of educational services.

Mr. **Barlow**. We have very carefully attempted to get a lot of Indian input and Indian people's involvement. We held 12 field hearings and we are basically concerned with two things, the funding which will be necessary if an agreement cannot be reached as to how to remedy a situation, and an orderly transition. We are working on these, and the rules, Mr. Scott, I understand will be ready when?

Mr. **Scott**. Hopefully, by the middle of August——

Mr. **Barlow**. Our intent is to exercise caution. We perceive this could be possibly subject to some emotionalism and so we are going to do all we can to inform the Indian people and to advise them to exhaust every avenue, every remedy prior to taking the final recourse in section 1101(d).

Mr. **Kildee**. Thank you, Mr. Barlow.

Mr. Lavis and Mr. Stormer would it be possible for you to have your staffs work together to make these regulations as meaningful as possible? You may need Department approval for that, but I wonder if, within the time constraints we have, the two staffs could work together?

Mr. **Lavis**. They have been working together.

Mr. **Kildee**. This subcommittee certainly encourages that and that you continue to do that.

Mr. Stormer, what time lines do you intend to apply? Is the November 1979 deadline going to be achieved?

Mr. **Stormer**. At this point in time, it does not appear that final regulations would be in place by November 1. With publication occurring on June 29, the 60-day comment period, I believe ends as of August 28. There will be an attempt to get final regulations, but I very honestly doubt that final regulations would be in place, and I am speaking in terms of our total package. At this point of time publication may be prior to the late portion of December. It may be essential to issue a segment of regulations as interim finals in order to have effective regulations.

I think the law, though, is substantial in itself and very comprehensive. This is one of the reasons this partial informational package and memorandum was sent to school systems, so they could be well advised as to the kind of process that would be necessary and the kind of addendum needed for our normal application.

Again I mention to you, that our normal application to receive assistance for fiscal 1979-80 school year is due on or before January 31. However, a school system certainly has the opportunity of applying for early payment, by October 1 of the school year. Many of our school districts including school districts serving Indian children do request early payment as requested by early application.

But in reality, the supplemental documentation for the implementation of title XI is not required to be in the Office of Education prior to January 31.

Mrs. Cave, do you wish to expand on that in any way?

Ms. **Cave**. If they want an early payment, if they want to make what we call a preliminary application, school districts do have to show they are in compliance with the law or they will not receive a payment.

Mr. **Kildee**. They have to show it by what time?

Ms. **Cave**. With the submission of preliminary application. They are supposed to submit those by October 1. So on that date they would have to show us that their policies and procedures were established; otherwise we would not consider giving them a preliminary payment.

Mr. **Kildee**. Counsel?

Mr. **Lovesee**. Thank you, Mr. Chairman. In other words, the provisions of part A will be applied for the 1979-80 school year.

Ms. **Cave**. Absolutely.

Mr. **Lovesee**. Will waivers to LEA's be granted?

Ms. **Cave**. I would say they would have to have a very good reason.

Mr. **Kildee**. Thank you very much.

We talked about the needs of the Indian people in having these rules and regulations disseminated and made clear. I think we have to also think in terms of the public school people. They, in turn, have to be very aware of their responsibilities in this whole area. So, I think we obviously think of both when we work on these rules and regulations. Everyone involved needs the information, also as expeditiously as possible. So I encourage widespread dissemination of information to all people involved in this.

Any other questions? Ms. Vance.

Ms. VANCE. When do the first impact aid payments go out for school year 1979-80?

Ms. CAVE. An awful lot is dependent on when we receive our appropriation. In lieu of an appropriation we usually are operating on a continuing resolution, but some years we are not always operating on that, either, as I think you know. And even when we get an appropriation, it often does take that full 30 days to reach our division. Often it is at least November before the very first payments go out.

Ms. VANCE. When are the final payments made, then?

Ms. CAVE. Final payments for the current year are made usually in the fall, October, November, and December, but we hope to begin making them earlier.

Ms. VANCE. Is it ever the case that initial payments are delayed as late as March?

Ms. CAVE. Oh, yes.

Ms. VANCE. So if there was a problem with compliance with regulations it would give time for payments not to be made until the complaints process might be completed?

Ms. CAVE. That is right, except we are told in the law not to disrupt the school system and their program. By stopping our payment they might have to close school and of course we would not want to do that.

Ms. VANCE. If the forms for preliminary applications from the LEA's coming in are not in compliance with the provisions of the law, is there a way that you would be able to inform the LEA and have the payment held?

Ms. CAVE. No; we would not make the first payment.

Mr. STORMER. May I clarify that just a bit. The application procedure is somewhat changing during the next fiscal year. We receive roughly 4,500 applications from school agencies, and the application due date for the last half dozen years has been January 31.

The procedures prior to this year were that we receive initial application January 31, initial payment was made to school districts commencing the 1st of March, and our efforts were to have all payments initially made by June 30. Subsequently after final data were received September 30 final payments were made.

We are in a transition period where we are trying to say in a given year, we will receive initial applications January 31 and we will make the first and initial payment prior to June 30.

But the amendments of 1979 do provide early payment educational aid—and upon request. We have suggested application for it to be made in letter form. The preliminary payment is due to be made within 30 days of the inception of the fiscal year under the assumption you have an appropriation at that point.

Mr. HINSON. I have one question. One of the obvious problems you might anticipate if the Indian parents decide they are very unhappy with what the local school system is doing, they will opt out and the funds will follow the children, as I understand it.

What anticipation has the Bureau given to the startup costs and construction costs that might be anticipated as a result of the necessity to build a school that would handle Indian children alone. Is any such planning underway? And are we really providing an option to Indian parents if there is no money to carry on?

Mr. **Lavis**. There are no funds available for implementing section 1101(d) nor to my knowledge are there funds being discussed in other sections.

We are hoping we can all work out something with the local public school district. I share your concern.

The next question we have to look at would be, as soon as we have any possibilities of difficulties, to examine the existing BIA system in that area. There might be certain school facilities available to us, there might be certain contract school facilities, but at the present time, we are not prepared to construct a new facility. Given our efforts it might be difficult. Just to start, the leadtime—if January 1 came and we had compliance problems, there is no way you can build a new school in such a short time.

Mr. **Hinson**. Such a scenario is unlikely, but assume it happened, then what?

Mr. **Lavis**. Then we would very quickly have to look to our existing system. There are certain boarding schools which have unused and declining enrollments and facilities that are not being used. That is a possibility. There might be other schools in the area. We would just have to cross that bridge when we got there. But we should start looking in anticipation of that possibility.

Mr. **Hinson**. That would be a good idea.

Miss Vance has another question.

Ms. **Vance**. For the impact aid staff, you are dealing with some changes in the impact aid law now which are not totally unfamiliar with you. In fact, many of the provisions put in statute are taken directly from what you had issued in the regulations before this year as assurances that LEA's were providing Indian participation or Indian planning in the education process.

The question I have is, How would your compliance of this same type of right be changing now that this is part of the law as opposed to an assurance in the regulation?

Mr. **Stormer**. Principally—and I will let others expand if they wish—as I understand the law, we have become more reliant upon the complaint procedure. A parent of a child residing on Indian land, through the tribal organization will issue a complaint or render a complaint, that the local education agency is not living up to the policies and procedures it has established to meet these assurances. It would be through this complaint procedure that school systems are identified as not living up to provisions of the law.

There may be occasions when our program personnel do review the records and related materials within the school districts. They may cite to us areas of concern. I do not think under the provisions we would have the responsibility or authority to initiate a complaint.

Mr. **Kildee**. Mr. Barlow.

Mr. **Barlow**. Mr. Chairman, I would like to ask if Mr. Scott could respond in a little more detail to the question of what the

Bureau's plans are to implement this in the event it comes down to being unable to resolve a dilemma, and because this task force is addressing that particularly and maybe you would be interested in knowing what some of our plans are.

Mr. Scott, would you like to comment on that?

Mr. **Scott**. That was one of the big issues the task force had trouble with, writing regulations without knowing if funds would be available for implementation. With that we began to develop a procedural process in the required rules and regulations. We are taking a look at supplemental requests or where additional funds could come from, either surplus, excess funds that could be brought into the funding process.

The problem we are faced with is having adequate funding if we have to build a school. These are some of the issues we hope to resolve which we hope will be put in the rules and regulations on how this will be done. But there will be forthcoming recommendations from the task force that will be more specific.

Mr. **Kildee**. Thank you, Mr. Scott.

Mr. **Stormer**. Do you send out something akin to a deficiency notice when an application comes in which is lacking a vital part? Do you let the school district know there is some shortcoming or deficiency in the application as to the impact aid program?

Ms. **Cave**. Yes, in the past this has taken the form of a letter. We have never done it in this particular area. But we certainly plan to.

Mr. **Kildee**. Suppose the application came in time for the deadline, but there was some deficiency in the application? Would they be permitted to remedy that deficiency then?

Ms. **Cave**. Oh, yes, we give them time to remedy it.

Mr. **Kildee**. We appreciate your presence here this morning. It has been very helpful to us. We are all working together to service Indian people, and I think your information and your attitude is excellent.

Mr. **Kildee**. The committee invited a representative from the Department of HEW Ms. Inez Smith-Reid to be here today to hear ideas on this matter. We were informed that the Department witness would not be available this morning.

I have a letter which says that Miss Reid will meet with staff later. It says: "I expect this matter can be resolved in a mutually satisfying way."

I take that as a very positive outlook and I will commit myself to monitoring this closely.

[The information follows:]

Department of Health, Education, and Welfare,
Office of the Secretary,
Washington, D.C., July 26, 1979.

Hon. Dale Kildee,
U.S. House of Representatives, Washington, D.C.

Dear Dale: As you know, Chairman Perkins has requested that Ms. Inez Smith-Reid, Deputy General Counsel for Regulations testify before Subcommittee on Elementary, Secondary, and Vocational Education on July 27. Ms. Smith-Reid is currently on annual leave and will not return until next week. Persons acting on her behalf are not as familiar with the Department's "Common Sense" policies governing the size and content of departmental regulations. We will review the application of this department-wide regulations policy on the Indian Education program regulations under the Education Amendments of 1978 (Public Law 95-561) with you and your staff when Ms. Smith-Reid returns. I expect that this matter can be resolved in a mutually satisfying way.

In addition, the concerns expressed in your letter of June 22, 1979 to former Commissioner of Education Ernest Boyer will also be reviewed, along with those of others who have and will comment on the proposed regulations published in the Federal Register.

I will be in touch with Mr. Lovesee to arrange a convenient time for us to meet as soon as Ms. Smith-Reid returns.

Sincerely,

WILLIAM A. BLAKEY,
Deputy Assistant Secretary
for Legislation (Education).

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
OFFICE OF THE SECRETARY,
Washington, D.C., July 26, 1979.

Hon. CARL D. PERKINS,
Chairman, Subcommittee on Elementary, Secondary, and Vocational Education, Committee on Education and Labor, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Secretary Califano has asked me to respond to your letter requesting that Ms. Inez Smith-Reid appear before your subcommittee on July 27.

I understand that William Blakey of my office has informed Congressman Kildee and your staff that Ms. Smith-Reid is currently on leave. However, as agreed with Mr. Blakey, we will be pleased to have her meet with Subcommittee members and/or staff upon her return.

I hope this arrangement is satisfactory to your needs.

Sincerely,

DICK WARDEN,
Assistant Secretary for Legislation.

Mr. KILDEE. We now welcome the next panel, consisting of Mr. LeRoy Hellwig, board chairman, Sisseton School District, Sisseton, S. Dak. He is accompanied by Maurice Rabenberg, superintendent of schools. Also on the panel, Mr. Jim Quetone, superintendent of public schools, Warner, Okla.

You may proceed in any fashion you determine among yourselves. Give your names for the reporter. You may proceed.

STATEMENTS OF JIM QUETONE, SUPERINTENDENT OF PUBLIC SCHOOLS, WARNER, OKLA.; AND LEROY HELLWIG, BOARD CHAIRMAN, SISSETON SCHOOL DISTRICT NO. [illegible]4-5, SISSETON, S. DAK., ACCOMPANIED BY MAURICE RABENBERG, SUPERINTENDENT OF SCHOOLS

STATEMENT OF JIM QUETONE, SUPERINTENDENT OF PUBLIC SCHOOLS, WARNER, OKLA.

Mr. QUETONE. Mr. Chairman and members of the Subcommittee on Education, it is a pleasure to be invited to appear before you and to supply some input into the proposed regulations concerning impact aid, Public Law 81-874.

My name is Jim Quetone and I am an American Indian. My mother is full-blooded Cherokee and my father was full-blooded Kiowa. I am currently enrolled as a member of the Kiowa Tribe. I received my B.S. and master's degree from Northeastern State University at Tahlequah, Okla. My administrator's certificate was secured from the University of Tulsa, Tulsa, Okla. I have 24 years of experience in education as a classroom teacher, coach, counselor, assistant principal, and superintendent, in both small and large school systems. The past 5 years I have served as superintendent of schools in Warner, Okla. I spent 2 years in the service of our country. I was named one of the outstanding educators in Oklahoma in 1974; have been involved with publication of Indian curriculum and culture materials through the Oklahoma State Department of Education; initiated remedial programs and curriculum changes; served as an evaluator of Indian publications by the National Indian Education Association; and have been a presentor for Johnson-O'Malley and title I programs to Indian educators and staff.

I would like to tell you something about my home State, Oklahoma, and the school district in which I am superintendent.

Oklahoma is a State with one of the largest populations of Indian people in the United States. These Indian people are members of almost every tribe known to the North American Continent. There are no Indian reservations in Oklahoma. Therefore, Indian people live in almost every school district in the State. Most schools have students that represent several different tribes. The Indian agencies that serve these people are located over the State in different places, usually where there is a concentration of Indians of that tribe.

Warner is a small rural school district located in the northeastern part of the State. It lies on the edge of an area served by the Cherokee and Creek Nations. We have approximately 850 students enrolled in grades K-12. We receive funds and have programs through Johnson-O'Malley, title IV, part A, Indian Education, title I, ESAA, and impact aid. Located in our school district boundaries are some Cherokee housing units.

The proposed regulations state that LEA's are to establish certain policies and procedures to insure the increased participation of Indian parents and tribes in the educational process.

The concerns of myself and other school districts, both administrators and patrons, including Indians, deal with the possibility of having to consult with several different tribes or representatives of these tribes. As I stated before, each school district in Oklahoma, since there are no reservations, may have students of several tribes attending school in their district. It is known that the lands on which most of these Indian students live are tax exempt and the money derived from impact aid is the contribution to the school district for these tax-exempt lands. Most other land in the State is taxed to help provide funds to operate the schools. I feel that all patrons of the school district, including Indians in that district, have an avenue for participation in the total school program through elected officials, the school board. Everyone has an opportunity to attend school board meetings as they are public and all patrons can supply input into the total school program.

Another concern is who would pick the representative to represent the tribe? The tribal council? If so, I can envision the tribal council dealing with many school districts. There are over 600 school districts in Oklahoma and almost every one has some Indian students.

In one school district in the western part of Oklahoma 25 percent of the total school district land is Indian tax exempt. Thirty-three percent of the student body is of Indian descent which represents

16 different tribes. This school would be dealing with 16 different representatives and dispensing information to 16 different tribes.

There are some cases in Oklahoma where non-Indians live on tax-exempt land. Students from these situations are counted on the impact aid application. Would these people be given a representative also? Who would decide this representative?

In dealing with several different tribes or their representatives my concern would be whether the representative would be knowledgeable about the local school situation. This representative may not live in the area, therefore may not be aware of the needs of the school district.

Indian people have input into school programs through title IV, part A, and Johnson-O'Malley committees and rightfully so, since these funds are specifically designated for programs for Indian students.

The proposed regulations state that a tribe or its designated agent may file a written complaint with the State department of education regarding an action of the LEA relative to policies and procedures and their implementation. My concern in this area is what type of school action or inaction would justify filing this complaint—expenditure of funds, discipline, expulsion, where a new building will be placed, et cetera? I feel these are decisions that the school administrators and school board should make. The nature of complaints should be more clearly defined.

The proposed regulations also state that if remedial action is not accomplished, a tribe may elect to contract the Bureau of Indian Affairs to provide educational services. My concern here is that if services were contracted of the Bureau of Indian Affairs for these students, then some students decided to return to the public school, would the impact aid funds return to the school or stay with Bureau services?

Gentlemen, I have had a chance to talk with many Indian people and school administrators. All have agreed that these proposed regulations would hamper the educational process in the State of Oklahoma.

Mr. **Kildee**. Thank you very much, Mr. Quetone.

With regard to your last question, students who remain or return to the LEA do continue to generate the funds we are speaking of.

We clarified that by technical amendments just passed within the past week or 10 days and sent to the White House.

Counsel?

Mr. **Lovesee**. As a matter of fact, it might have been this week it was sent to the President.

Mr. **Kildee**. That is right, the Senate just completed action. So the question you raised was a good question and Congress has addressed itself to that.

Mr. **Kildee**. We will hear from Mr. Hellwig.

STATEMENT OF LEROY HELLWIG, BOARD CHAIRMAN, SISSETON SCHOOL DISTRICT NO. 54-5, SISSETON, S. DAK., ACCOMPANIED BY MAURICE RABENBERG, SUPERINTENDENT OF SCHOOLS

Mr. **Hellwig**. I am LeRoy Hellwig, chairman of the board of education of the Sisseton School District, Sisseton, S. Dak., speaking on behalf of the Sisseton Board of Education. I would like to express my appreciation for this opportunity to present questions and statements in regard to Public Law 95-561 and how it might affect public schools in our State.

Let me first give you a brief résumé of our district, which encompasses 436 square miles and includes an enrollment of approximately 1,500 elementary and secondary students. Nearly 50 percent of these students live in rural areas and are transported by district-owned schoolbuses. The district owns 17 buses and operates 14 regular morning and evening routes plus 1 intown route.

The district has 162 employees—88 certified and 74 noncertified. Among the noncertified employees are secretaries, teacher aides, clerical aides, cooks, custodians, and busdrivers.

It is our pleasure to be here to add input.

In 1966, the mid-1960's, we had a reorganization in our area. We brought in a neighboring school district and a couple of Indian day schools. At that time we were blessed with the Federal Government building the two facilities for us to enable us to achieve that end. We were promised at that time that we would be able to fund those facilities through local effort, State effort, Johnson-O'Malley, and 874. We have become quite involved in 874.

Mr. Chairman, we at Sisseton feel fortunate that Alan Lovesee and Jeff McFarland were both able to spend some time in our area. Jeff spent nearly a week evaluating our school and community.

We appreciate the law and it will enable us to continue to offer a high level of education in our area. We concur completely with the goals of the law in that it provides that we offer an equal opportunity to Indian children and an equal opportunity to Indian parents. When we looked at the regs, we were left with some questions. They would be based specifically on section 1101(c)(3)(i), which declares that a school district shall insure that Indian children claimed under section (3)(a) participate on an equal basis with all other children educated by the local educational agency.

At present our school system is approximately 44 percent Indian enrollment. The question is, Does it require that the district take affirmative action to assure the Indian students shall have an equal opportunity, or does it mean there will be 44 percent participating in each program? If that is the case, we would have difficulty complying.

If that does mean that, if there were to be more than 44 percent, would we not let them participate?

It would be the position of our school district that such a position would not fulfill the intent of the law and that the regulations possibly should be rewritten to make it clear that the school district has the responsibility of encouraging Indian student enrollment in all programs and that the school district offer equal opportunity to participate in any program.

A second area we think needs clarification in the regulations is in the area of tribal and parental involvement and their receipt of information from the district.

The district would oppose any mandatory requirements as to what persons must give input or what persons must receive information before the district can receive the funds. We have no local authority to require anybody to come and give us input before we would be able to accomplish this.

Again, it would be the position of the school district that the regulations should be rewritten to make it clear that the school should have an equal opportunity for parental involvement and that we disseminate information from our school on an equal basis.

I think the honorable gentleman from Kentucky this morning probably said it better than I can since he has been here more often than I. He said it should be the intent that we offer as much or an equal opportunity to Indian parents and children. I think that is the intent of the law and I do not think we need to go much beyond that.

The failure of an educational agency to provide equal treatment is taken care of in the grievance procedure and that should remain the remedy.

A final area which we feel the regulations fail to cover is; who should be the hearing examiner? We feel the hearing examiner appointed by the Commissioner of Education should be a person designated by the State as the person who has the responsibility of supervising primary and secondary education for that State. In South Dakota that person would be the superintendent of instruction. These professionals would have the expertise and knowledge to conduct a fair and knowledgeable investigation. State chief school people are attuned to furnish an equal educational opportunity. This proposal would be superior we believe to having a group of hearing examiners from Washington, D.C., or perhaps Bureau area offices.

They would have to familiarize themselves with State laws and regulations and we feel the State chief school officer would have that expertise.

After listening to Mr. Stormer and his explanation as to guidelines, we were concerned that we were going to be regulated, per se, through memorandum. They softened that to be guidance. Now we do not know where this is going to go. We are a little nervous about it, to tell you the truth. We would rather the regs be more specific and have less memorandum but if memorandum is truly guidance, I do not think we could be scared of it.

Mr. KILDEE. We discussed the suggestion to make the memorandum more complete earlier, but I would concur with you. The regulations should be more detailed and more complete so that there would not be vagueness, to try to give you regulation by memorandum could cause some trouble.

Mr. HELLWIG. And finally I would thank them for keeping them brief.

Another concern we talk about is tribes and/or parents. We believe as the gentleman here does—referring to Mr. Quetone—that tribes can sometimes be quite a distance away and more emphasis should be placed on parents and less on tribal officials.

Our tribal officials, some of them do not live in our school district. I think more emphasis should be placed on the parents of the district and less on the tribe itself.

With that, I thank you very much for the opportunity to share. As far as disseminating information and informing people we have some things that we do. I would be glad to leave them with the committee.

Mr. KILDEE. We would appreciate that for the record.

[The prepared statement of Mr. Hellwig follows:]

PREPARED STATEMENT OF LEROY HELLWIG, BOARD CHAIRMAN, SISSETON SCHOOL DISTRICT 54-5, SISSETON, S. DAK.

I am LeRoy Hellwig, Chairman of the Board of Education of the Sisseton School District, Sisseton, South Dakota, speaking on behalf of the Sisseton Board of Education. I would like to express my appreciation for this opportunity to present questions and statements in regard to Public Law 95-561 and how it might affect public schools in our state.

A brief resume of our district which encompasses 436 square miles includes an enrollment of approximately 1,500 elementary and secondary students. Nearly 50 percent of these students live in rural areas and are transported by district-owned school buses. The district owns 17 buses and operates 14 regular morning and evening routes plus one in-town route.

The district has 162 employees—88 certified and 74 non-certified. Among the non-certified employees are secretaries, teacher aides, clerical aides, cooks, custodians and bus drivers.

The growth of the school district through reorganization began with the attachment of four common districts in Red Iron Township July 1, 1974. The Peever Independent District merged with the Sisseton district in July, 1966, a milestone in the voluntary reorganization of a unified school community. About that same time two Bureau of Indian Affairs day schools and St. Peter's School in Sisseton closed and joined the Sisseton School District.

Public Law 874, instituted in 1953, has become an integral part of our budget over the years. Please review attachments No. 1 and No. 2. These type dollars have allowed us to maintain the mandates of the state and North Central accrediting bodies.

Mr. Chairman, we at Sisseton feel fortunate that Alan Lovesee and Jeff McFarland were both able to spend some time in our area. Jeff spent nearly a week evaluating our school and community.

The Sisseton School District of Sisseton, South Dakota, approves the Education Amendments of 1978 (Public Law 95-561). The increase in payments in lieu of taxes will allow the Sisseton School District to continue offering a high level of educational opportunities to all Indian children of the District.

The District also concurs with the goals of the amendments that Indian children have an equal chance to participate in the school program and that parents of Indian children become involved in the educational system in which their children participate.

When the District looked to the proposed regulations for guidance as to how to correctly implement Public Law 95-561, it was left with several questions. The District cannot find the guidance it feels it needs with the regulations as proposed.

A review of the statute leaves three questions of interpretation of the statute. These issues, while vitally important, are not dealt with in the regulations.

Sec. 1101(c)(3)(i) declares that the school district shall insure that Indian children claimed under section (3)(a) participate on an equal basis in the school program with all other children educated by the local educational agency. At present our District contains approximately 44 percent Indian enrollment. Does this section require that all activities contain a 44 percent Indian enrollment or does it require that the District take affirmative action to assure the Indian students shall have an equal opportunity to participate in those activities in which they desire? Does the above cited section create a quota requirement? If so, the District could not comply as it has no legal authority over students in high school to force them to attend school and can only require students to enroll in classes which are required by the laws of the State of South Dakota.

A further question that arises is when more than 44 percent of the students seeking admittance to an activity are Indian. If a quota does exist, does it preclude accepting Indian enrollment in a certain program above 44 percent of the total enrollment?

It is the position of the School District that this does not fulfill the intent of the law and that the regulations should be rewritten to make it clear that the School District has the responsibility of encouraging Indian student enrollment in all programs offered by the School District and that equal opportunity exists for all students to participate.

The second area the District feels needs clarification in the regulations is in the area of Tribal and parental involvement and their receipt of information from the District. The District opposes any mandatory requirements as to what persons must give input before the District can receive funding as the School District has no legal authority to force parents of Indian children or tribal officials to contribute such input.

Again, it is the position of the District that the regulation should be rewritten to make it clear that the School District offer the opportunity for involvement of parents and the dissemination of information on an equal basis.

Failure of a local educational agency to provide equal treatment of parents and/or students can result in the grievance procedure outlined in the law and remains the remedy to non-compliance.

The final area which, we feel, the regulations fail to cover is the issue of who shall be the hearing examiner. The Sisseton School District feels that the hearing examiner appointed by the Commissioner of Education should be the person designated by a State as the person who has the responsibility of supervising primary and secondary education for that State. In South Dakota that would be the Superintendent of Public Instruction. The District feels that these individuals have the professional expertise and the knowledge of local conditions to conduct a fair and knowledgeable investigation and hearing into the grievance. State Chief School Officers are attuned to the necessity to furnish equal educational opportunities. This proposal would be superior to having a group of hearing examiners sent out from Washington, D.C., or BIA area officers, who would have to familiarize themselves with State laws and regulations and the background of the community and parties involved before reviewing the complaint upon its merits.

It appears that requirements for compliance with the Act will be supplied in "program information packages" or bureaucratic memorandum, rather than in the regulations. The District feels this is contrary to the intent of the law and that requirements should be contained in the regulations so the School Districts, Tribes and concerned parties will have the benefit of established rules and the review of proposed changes in them. "Program information packages" or bureaucratic memorandum are subject to change without notice and could cause inconsistancy and confusion. It seems a simple definative regulation would be superior.

Mr. Chairman, thank you for the opportunity to share our concerns with your committee.

ENROLLMENT OF ELEMENTARY AND SECONDARY STUDENTS, SISSETON SCHOOL DISTRICT, SISSETON, S. DAK., 1973-79

	1973-74	1974-75	1975-76	1976-77	1977-78	1978-79
White students	1,064	1,039	956	898	867	815
Indian students	568	605	604	617	646	645
Total	1,632	1,644	1,560	1,515	1,513	1,460
Percentage of Indian students	35	37	39	41	43	44

Year	ADA "A's"	ADA "B's"	Summary of entitlement	Entitlement for payment
1974-75	241	439	$282,268.08	$227,132.00
1975-76	297.41	377.04	316,044.68	274,251.28
1976-77	259.16	389.64	313,564.63	265,107.63
1977-78	278.81	399.87	396,613.84	305,576.80
1978-79	337.45	330.11	527,892.49	404,739.41

Mr. **Kildee**. Mr. Quetone, on page 3 you ask whether the non-Indians living on the tax-exempt land would be involved in the representative process. The answer, for the record, is no. I think it is a valid question and we will respond for the record on that.

Mr. Quetone, your statement points out some of the problems which are unique to Oklahoma. We recognize that situation, inasmuch as we do not have reservations in Oklahoma, but we do have tribes of large numbers of people.

Do you feel there should be a waiver of the part A requirements for Oklahoma schools. If so, would this not leave some tribes, particularly those in the Western half of the State who do have problems with public schools, without some legal defense?

Mr. **Quetone.** I believe the area in which we are talking, they all have input into their school board. Maybe they are not as receptive as some others by the school board or the superintendent, but it possibly would leave them that particular avenue for seeing that their ideas have input into the total system.

I think also, they have strong enough leaders in those particular areas that they can, with some organization on their own part, they would be able to give this input into the system. I cannot see that with these types of problems, any school superintendent would not have an opportunity to listen to a complaint of a patron. Maybe I am a little naive about it, but I have spoken to many superintendents in Oklahoma and I know they are aware of the problems we do have in western Oklahoma. But they are also receptive to listening to the input.

Mr. **Kildee.** In those instances where things are functioning smoothly and have been functioning smoothly, how or why do you feel title XI, Public Law 95-561 would be destructive?

Mr. **Quetone.** We would have problems dealing with several different representatives of the different tribes. Not always do they know what needs are required in a particular district.

As I said before, they may have been living outside the school district, they may be far-removed.

Some of the tribes that live or Indians that live in one school district, their tribal office may be as far as 150 to 200 miles away, maybe further. If that council sends a representative to that district they may not be aware of the needs of that school district.

Mr. **Kildee.** The law does not necessarily require they avail themselves of the opportunity, but it does require the opportunity for input from the tribes.

I am not sure how Congress will address the Oklahoma situation or if we will address it at all. It may have to be addressed locally. However, we have to keep in touch with you folks because none of our laws are written on Mount Sinai and they are subject to change.

At the present time the Congress is concerned about having the opportunity for input, with the strong feeling that that opportunity must exist. But we would welcome input as to how this might be working out.

Right now we are talking about the possibility of a problem. If there is a real problem, we definitely would like to hear from you on that, because we are continually looking at legislation in this regard.

Does Counsel have any questions at this point?

Mr. **Lovesee.** No, sir.

Mr. **Kildee.** Miss Vance.

Ms. **Vance.** No, sir.

Mr. **Kildee.** Mr. Hellwig, on page 3 you expressed a fear that the Office of Education would interpret equal opportunity as a quota of

44 percent or so. Has there been any action in the past to lead you to believe this might be the intent?

Mr. HELLWIG. None whatever.

Mr. KILDEE. Again we would like to have information from you if something like that seems to be developing.

Would your concern as to who is the complaint hearing examiner be less if the State Department or Office of Education were involved only in an advisory capacity?

Mr. HELLWIG. Not necessarily, I do not think. I guess our thought is that each State has a chief school officer and that he, it seemed to us, would be the realistic person to hear a possible complaint. If he hears it, he also becomes aware of it, whereas he may not have been aware of it before. He really is the man who has the responsibility to see that the State has equal opportunity. By including him, we thought we might actually make him a little stronger, also. He just seemed to be the logical person, to us.

Mr. KILDEE. What steps has your school district taken to consult parents and tribal officials of the procedures necessary to receive funding?

Mr. HELLWIG. We just received the memorandum about 3 days ago. We have not gotten very far into it. At the same time we do have title IV advisory people and we do have home-school coordinators who go visit with parents and so forth. So even before this, we had involved all parents very extensively. The coordinators would have been mainly for Indians.

Mr. KILDEE. What percentage of the school district's funds come from Public Law 874?

Mr. HELLWIG. I think we will be involved to the tune of $400,000 out of a budget of $2.1 million.

Mr. KILDEE. We agreed with you enthusiastically with the problems you point out on page 4 with the inadequacy of informational packages and bureaucratic memorandums. In my letter to the Office of Education I think we established a good dialog with them and we will continue to work with them.

Mr. HELLWIG. I think the regs could be a little more specific, and if the regs are in fact "guidance," we need a lot of it.

Mr. KILDEE. Counsel, do you have any questions at this point?

Mr. LOVESEE. No, sir.

Mr. KILDEE. Minority counsel?

Ms. VANCE. No, sir.

Mr. KILDEE. Thank you very much.

Our next panel will consist of Mr. Joe McDonald, tribal councilman, Confederated Salish and Kootenai Tribes, and Mr. Michael Simon, tribal education planner, Sisseton-Wahpeton Sioux Tribe, Sisseton, S. Dak.

Mr. Simon, if you will go first, we will appreciate it.

Mr. SIMON. Thank you, Mr. Chairman.

I would like to read our statement and after reading my statement if there are any questions, specifically, I will be available to answer them.

Mr. KILDEE. Your statement in its entirety will be included in the record. If you wish to summarize, you may do that, also.

STATEMENT OF MICHAEL L. SIMON, TRIBAL EDUCATION PLANNER, SISSETON-WAHPETON SIOUX TRIBE, SISSETON, S. DAK.

Mr. SIMON. Mr. Chairman and members of the subcommittee: I am Michael L. Simon, tribal education planner for the Sisseton-Wahpeton Sioux Tribe of Sisseton, S. Dak. I welcome the opportunity to appear before this subcommittee to offer these general comments and recommendations on behalf of the Sisseton-Wahpeton Sioux Tribe of South Dakota.

Before I present my comments, it is significant to point out that it has been the Congress that has been the originator of legislation to change educational programs to benefit Indian children. The recent effort of the Committee on Education and Labor continues this custom of congressional involvement in addressing Indian education issues. We commend you for your zealous effort and interest and it is our hope that we can all work together to bring forth quality education for our Indian children.

Upon examination of this significant piece of legislation the complexity and scope of change imposed by Public Law 95-561 underscores to all who are involved in the education of Indian children that change is envisioned and responsibility for meaningful change rests significantly within the local areas. This legislation, Public Law 95-561, in keeping with the policy of Indian self-determination, as expressed by the Congress in Public Law 93-638, reemphasizes the language which states:

> * * * The Congress hereby recognizes the obligation of the United States to respond to the strong expression of the Indian people for self-determination by assuring maximum Indian participation in the direction of educational * * * services to Indian communities so as to render such services more responsive to the needs and desires of those communities * * *.

Let me first begin by reviewing the intent and importance of Public Law 93-638, because this act was designed to alleviate much of the problems that Public Law 95-561 will be addressing and hopefully will reform.

It has been 4 years plus since the enactment of the Indian Self-Determination and Education Assistance Act, commonly called Public Law 93-638, which renewed Federal efforts and concern about the condition of Indian people. In retrospect, this legislation was designed to strengthen Indian self-government through self-determination, the act is also significant because it also makes plain the relationship between Indian self-rule and Indian education. Indian education has historically contributed greatly to the identity of Indian peoples because in spite of the establishment of homelands for our aboriginal people the dominant policy of the Federal Government toward the Indian has been one of coercive assimilation. However, Public Law 93-638 makes the distinction between Indian self-rule and Indian education as critical and demonstrates Congress growing awareness of the critical relationship between education quality and political control. Therefore, as Congress presented to Indian communities greater control of their lives, the substance and symbolic importance of Public Law 93-638 represents a watershed in Federal Indian policy.

Mr. KILDEE. If I may interrupt. I must answer the bells and go to the floor for a vote. The subcommittee will be recessed for 10 minutes.

[Brief recess.]

Mr. **KILDEE**. We will resume the testimony of Mr. Simon.

Mr. **SIMON**. Mr. Chairman, I would like to do a quick analysis of Public Law 93-638 because for some reason the act has been somewhat ineffectual and from this brief examination we hope to state our case on the problems we foresee in the implementation of Public Law 95-561.

First, Public Law 93-638 did not restructure the Bureau of Indian Affairs, which is the institution responsible for administering Federal Indian policy and historically it has been the responsible agency impeding the development of effective Indian self-government.

Second, it failed to speak to the practical political problems that arise from public schooling of Indian children. State schools have traditionally served as devices to force Indian acculturation, largely by depriving Indian people and tribes of any real control over their children's education and rearing.

The act consists of two parts: The Indian Self-Determination Acts and title II. The foremost innovation: A mandate to the Secretaries of the Interior and HEW to contract Federal programs described in the act to Indian control upon the request of any Indian tribe. At the option of Indian tribes the middleman (BIA) must step aside. This, nevertheless, never occurred.

This is particularly notable in the area of education because the directive in the act refers specifically to the two programs under which all BIA education activities are operated—the Johnson-O'Malley Act and the Snyder Act.

Title II, the Indian Education Assistance Act, deals principally with Indian education in public schools. Part A of title II amends the Johnson-O'Malley Act, a prime source of supplemental funds for Indians enrolled in public schools, to induce greater attention to the particular needs of those children.

Part B of title II provides new authority for building school facilities in public school districts that serve Indian children. Part C of title II directs the Secretary of the Interior to promulgate rules and regulations for implementing the title.

The intent of the amendment in part A of title II was to put more funds into the supplemental category because it was discovered many school districts, throughout the Nation, educating Indian children did not need basic support dollars.

If more funds were channeled into the supplemental category the problems of excessive dropout rate, low achievement level, anti-Indian attitude, insensitve curriculums, and the breeding of low self-image among Indian students could be changed.

This, however, has not happened and it remains highly doubtful in Indian country that the ingrained anti-Indian bias in off-reservation, white-controlled schools will change in the immediate future.

Our tribe has experienced the inconsistency within the act when we contracted to operate certain programs and the BIA failed to give indirect cost for the operation of the programs.

One of the major shortcomings of the act is that Congress failed to assess the capacity of the administrative agency responsible for implementing the law.

While Congress intent theoretically gave control to Indians plus the pace and scope of self-determination, Congress, unfortunately, delegated over to the BIA to draft and enact the act's regulatory framework without specifying how these regulations should affect the BIA itself.

The tribe anticipates this same process happening in Public Law 95-561, in that it does not specify in detail how established policies and procedures will be drafted other than information will be received from Indian parents and tribes and assurances will be made to the Commissioner of Education that the procedure was followed.

Upon receipt of these assurances from LEA's the Commissioner shall have authority to waive the 1-year limit for good cause and in writing to the tribes to be affected.

We view this as being after the fact. We need assurances tribes and Indian parents will be consulted beforehand and will have an active part in drafting the policies and procedures and the educational programs our Indian children will be involved in. At present we have not begun to deliberate upon these with our local school district.

I would like to add for the record that perhaps we are a little premature in this.

The act's other major shortcoming is its failure to impose on States, which have so much power over Indian education, the same constraints that it imposes on the Federal Government.

In title I, Congress, in theory, severely curtailed Federal power to control Indian programs through the BIA, while in title II it left the organization, control, and much of the responsibility for the content of educational programs for Indian children in the hands of State-run public school systems that have traditionally been hostile to Indian identity.

We bring to your attention a statement made by Special Senate Subcommittee on Indian Education, "Indian Education: A National Tragedy—A National Challenge," Senate Report No. 501, 91st Congress, 1st session (1969).

A careful review of the historical literature reveals that the dominant policy of the Federal Government toward the American Indian has been one of forced assimilation which has vacillated between the two extremes of coercion and persuasion. At the root of the assimilation policy has been a desire to divest the Indian of his land and resources.

From the first contact with the Indian, the school and the classroom have been a primary tool of assimilation. Education was the means whereby we emancipated the Indian child from his home, his parents, his extended family and his cultural heritage. It was in effect an attempt to wash the savage habits and tribal ethic out of a child's mind and substitute a white middle-class value system in its place.

It is clear in retrospect that the assimilation by education policy was primarily a function of the Indian land policy. The implicit hope was that a civilized Indian would settle down on his 160 acres of land and become a gentleman farmer. But in addition, there has been a strong strain of converting the heathen and civilizing the savage, which has subtly, but persistently, continued up to the present.

Two stereotypes still prevail—the dirty, lazy, drunken Indian—and, to assauge our conscience, the myth of the noble savage.

Today on our reservation, almost a century later we face the same problems our forefathers have been confronted with—problems with our land and education. In spite of these major problems we have every right to keep our land and we have every right to say how our Indian children will be educated.

As we view in restrospect the Special Senate Subcommittee on Indian Education, Report No. 501, 91st Congress, 1st session (1969) the "Summary of Historical Findings" include the following—Mr. Chairman, I want to proceed faster so I will have time to answer some questions.

Mr. **Kildee**. Your whole written testimony will be included in the record.

Mr. **Simon**. In summarizing the above-referenced statements it is inconceivable that a policy that has been strictly colonialist in approach toward native American education is going to change, unless that policy consistent with the educational philosophy is decolonialized in the American and made meaningful for Indian people in such a way it becomes a liberation road and an American road, which is to say that it becomes Americanistic.

It becomes almost convincing that the conclusion that persons of Indian background, whether of full or mixed blood, are by nature, inferior, since they have notably failed to become successful participants in the dominant culture.

In any event, it would seem clear that the past century of white education has failed to help the native community develop its own indignous potential and has failed to assimilate the Indian into white society.

Until the colonialist approach that had dominated educational programs offered to Indians, whether they are operated by the Bureau of Indian Affairs, by missionary groups, or by State institutions, has been altered in philosophical position with the following beliefs being consistently adhered to:

The white man is wiser than the Indian and, therefore, has the right—or obligation—to make key decisions about the Indian's own future;

The Indian must be trained for participation primarily within white society;

Indians must not receive sophisticated training in a setting which might expose them to ideas which would threaten the status quo in Indian policy;

Indians must not control any educational institutions, or if they possess nominal control, actual power must reside in non-Indian hands, and

Native languages and cultures must not be taught, or if they are taught, they must be taught by non-Indians in a curriculum planned by non-Indians or in specialized anthropology courses designed to serve the often narrow purposes of science or of white middle-class students: Not much will change and Public Law 95-561, although very significant in approach and intent will fail to incorporate Indian input into educational programs at the local level.

I will proceed to page 8.

We wish to make a point that from our own experience locally, that during the 1959's and until the midsixties, Indian people never had input, through the Federal programs, whether it was JOM, or 874, into the local school system.

When Indian people began questioning the use/purpose of these funds by the school district it seems we began to have problems with the LEA. Therefore, it is highly probable Public Law 95-561 will make such an impact upon whether Indian parents participate actively in the education of their children at the local level.

In conclusion, we make these recommendations based upon the historical relationship in education of the Sisseton-Wahpeton Sioux Tribe, tribal parents and the Sisseton Independent School District 544, in regard to the implementation of the impact aid provisions contained in title XI of Public Law 95-561.

We recommend:

One, that section 1101 (d) (3) (A) be strengthened by including the most appropriate method in the formation of the local educational agency to include the Indian parent and tribe.

Two, that Indian parents be consulted and joint agreement by all parties involved determine the appropriate procedures. In other words, the LEA should not draft the policies/procedures, then present it to the Indian parents/tribe for their review and comments.

Three, the Commissioner must consult with Indian parents/tribes if he or she proposes to waive the 1-year limit for good cause in making payments to any/all entitlements to the LEA.

Four, a clear definition be established by the Indian parents, Indian tribes and the local education agency on what precisely is meant by (B)(i) "Indian children claimed under section 3(a) participate on an equal basis in the school/program with all other children educated by the local educational agency";

Five, that all materials that need to be disseminated under (B)(ii) be accomplished beforehand, not after the application for funds has been submitted;

Six, we request some assurances from these regulations that if Indian parents/tribes request specific programs affecting the basic education of Indian students that they be implemented as conveniently as possible if it would not impose undue hardship upon the LEA;

Seven, in order to insure full participation of Indian parents some provision be included whereby Indians can serve on the school board because we have never succeeded in getting an Indian elected to the school board.

I would like to qualify that, Mr. Chairman, by saying in the past we did have parents that were successful in getting elected to the school board but recently after we started to question much of the educational programs and much of the expenditure of Federal dollars that went into the schools for Indian children, it seems we have not had success in getting an Indian elected to the school board.

Eight, the Commissioner provide personnel to give local training/technical assistance and to monitor implementation at the local level to assure the maximum implementation of regulations;

Nine, in the complaint procedure what criteria will be used and who will determine that criteria—we recommend Indian Tribes or their designees be involved in this process;

Ten, lastly, we recommend that the statute be more specific in the procedures it will utilize to get local school administrations to involve Indian parents and schools to work cooperatively.

We have not yet experienced how the local educational agency provides free public education for children who reside on Indian land because during the course of history when two governments enter into a treaty each has proposed to give something in exchange for receiving the same.

For many years study after study and report after report have been issued looking toward improvement of the lot of our Indian citizens which, while resplendent with promises, have come to naught. We stress realization over promise * * * namely, a means to achieve the guidance by Indians themselves of the education of their own children through national and local Indian boards of education.

We appreciate this opportunity to express our comments and recommendations. The Sisseton-Wahpeton Sioux Tribe would like to communicate its appreciation to the Committee on Education and Labor and specifically to the Subcommittee on Elementary, Secondary and Vocational Education for their concern and dedication to fulfill a common goal of quality education for Indian children, adults and tribal governments.

Mr. Chairman, this concludes my statement.

[The prepared statement of Mr. Simon follows:]

PREPARED STATEMENT OF MICHAEL L. SIMON, TRIBAL EDUCATION PLANNER, SISSETON-WAHPETON SIOUX TRIBE, S. DAK.

Mr. Chairman and members of the subcommittee, I am Michael L. Simon, Tribal Education Planner for the Sisseton-Wahpeton Sioux Tribe of Sisseton, South Dakota. I welcome the opportunity to appear before this Subcommittee, to offer these general comments and recommendations on behalf of the Sisseton-Wahpeton Sioux Tribe of South Dakota.

Before I present my comments, it is significant to point out that it has been the Congress that has been the originator of Legislation to change educational programs to benefit Indian children. The recent effort of the Committee on Education and Labor continues this custom of congressional involvement in addressing Indian education issues. We commend you for your zealous effort and interest and it is our hope that we can all work together to bring forth quality education for our Indian children.

Upon examination of this significant piece of Legislation the complexity and scope of change imposed by Public Law 95-561 underscores to all whom are involved in the education of Indian children that change is envisioned and responsibility for meaningful change rests significantly within the local areas. This Legislation, Public Law 95-561 in keeping with the policyof Indian self-determination, as expressed by the Congress in Public Law 93-638, re-emphasizes the language which states "* * *. The Congress hereby recognizes the obligation of the United States to respond to the strong expression of the Indian people for self-determination by assuring maximum Indian Participation in the direction of educational * * * services to Indian communities so as to render such services more responsive to the needs and desires of those communities * * *."

Let me first begin by reviewing the intent and importance of Public Law 93-638, because this act was designed to alleviate much of the problems that Public Law 95-561 will be addressing and hopfully will reform.

It has been four (4) years plus since the enactment of the Indian Self-Determination and Education Assistance Act, commmonly called Public Law 93-638, which renewed federal efforts and concern about the condition of Indian people. In retrospect, this Legislation was designed to strengthen Indian self-government through self-determination, the act is also significant because it also makes plain the relationship between Indian self-rule and Indian education. Indian education has historically contributed greatly to the identity of Indian peoples because in spite of the establishment of homelands for our aboriginal people "the dominent policy of the Federal Government toward the Indian has been one of coercive assimilation." However, Public Law 93-638 makes the distinction between Indian self-rule and Indian education as critical and demonstrates congress's growing awareness of the critical relationship between education quality and political control. Therefore, as congress presented to Indian communities greater control of their lives the substance and symbolic importance of Public Law 93-638 represents a watershed in Federal Indian policy.

I would like to do a quick analysis of Public Law 93-638 because for some reason the Act has been somewhat ineffectual and from this brief examination we hope to state our case on the problems we foresee in the implementation of Public Law 95-561.

First, Public Law 93-638 did not restructure the Bureau of I[illegible]airs, which is the institution responsible for administering federal Indian policy and historically it has been the responsible agency impeding the development of effective Indian self-government. Secondly, it failed to speak to the practical plitical problems that arise from public schooling of Indian children. State schools have traditionally served as devices to force Indian Acculturation, largely by depriving Indian people and Tribes of any real control over their children's edcuation and rearing.

The Act consists of two (2) parts: The Indian Self-Determination Act (Title II). The foremost innovation: A mandate to the Secretaries of the Interior and H.E.W. to "contract" federal programs described in the Act to Indian control "upon the request of any Indian tribe". At the option of Indian tribes the middleman (BIA) must step aside. This, nevertheless, never occurred. This is particulary notiable in the area of education because the directive in the Act refers specifically to the two (2) programs under which all BIA education activities are operated—The Johnson O'Malley Act and the Snyder Act.

Title II, the Indian Education Assistance Act, deals principally with Indian education in public schools. Part A of Title II amends the Johnson-O'Malley Act, a prime source of supplemental funds for Indians enrolled in public schools, to induce greater attention to the particular needs of those children. Part B of Title II provides new authority for building school facilities in public school districts that serve Indian children. Part C of Title II directs the Secretary of the Interior to promulgate rules and regulations for implementing the Title.

The intent of the amendment in Part A of Title II was to put more funds into the supplemental category because it was discovered many school districts, throughout the nation, educating Indian children did not need basic support dollars. If more funds were channelled into the supplemental category the problems of excessive dropout rate, low achievement level, anti-Indian attitude, insensitive curriculums, breeding of low self-image among Indian students could be changed. This, however, has not happened and it remains highly doubtful in Indian country that the ingrained anti-Indian bias in off-reservation, white-controlled schools will change in the immediate future.

INCONSISTENCIES IN THE ACT

Our Tribe has experienced the inconsistency within the Act when we contracted to operate certain programs and the BIA failed to give indirect cost for the operation of the programs. One of the major shortcomings of the Act is that Congress failed to assess the capacity of the administrative agency responsible for implementing the law. While Congress intent theoretically gave control to Indians plus the pace and scope of self-determination Congress unfortunately delegated power to the BIA to draft and enact the Act's regulatory framework without specifying how these regulations should affect the BIA itself.

The Tribe anticipates this same process happening in Public Law 95-561, in that it does not specify in detail how established Policies and Procedures will be drafted other than information will be received from Indian parents and Tribes and assurances will be made to the commissioners that the procedure was followed. Upon receipt of these assurances from LEA's the Commissioner shall have authority to waive the one-year limit for good cause and in writing to the Tribes to be affected. We view this as being after the fact. We need assurances Tribes and Indian parents will be consulted beforehand and will have an active part in drafting the policies and procedures and the educational programs our Indian children will be involved in. At present we have not begun to deliberate upon these with our local school district.

The Act's other major short coming is it's failure to impose on states, which have so much power over Indian education, the same constraints that it imposes on the Federal government. In Title I Congress, in theory, severely curtailed federal power to control Indian programs through the BIA, while in Title II it left the organization, control, and much of the responsibility for the content of educational programs for Indian children in the hands of state-run public school systems that have traditionally been hostile to Indian identity.

We bring to your attention a statement made by Special Senate Sub-Committee on Indian Education, Indian Education: A National Tragedy—A National Challenge, Senate Report No. 501, 91st Congress, 1st Session (1969) a careful review of the historical literature reveals that the dominant policy of the Federal Government toward the American Indian has been one of forced assimilation which has vacillated between the two (2) extremes of coercion and persuasion. At the root of the assimilation policy has been a desire to divest the Indian of his land and resources.

From the first contact with the Indian, the school and the classroom have been a primary tool of assimilation. Education was the means whereby we emancipated the Indian child from his home, his parents, his extended family, and his cultural heritage. It was in effect an attempt to wash the "savage habits" and "tribal ethic" out of a child's mind and substitute a white middle-class value system in its place.

It is clear in retrospect that the "assimilation by education" policy was primarily a function of the "Indian land" policy. The implicit hope was that a "civilized Indian" would settle down on his 160 acres of land and become a gentleman farmer. But in addition, there has been a strong strain of "converting the heathen" and "civilizing the savage," which has subtly, but persistently, continued up to the present. Two (2) stereotypes still prevail—"the dirty, lazy, drunken" Indian and, to assuage our conscience, the myth of the "noble savage."

Today our reservation, almost a century later we face the same problems our forefathers have been confronted with—problems with our land and education problems. In spite of these major problems we have every right to keep our land and we have every right to say how our Indian children will be educated.

As we view in retrospect the Special Senate Sub-Committee on Indian Education Report No. 501, 91st Congress, 1st Session (1969) the Summary of Historical Findings include:

I. Policy failure

The dominant policy of the Federal Government towards the American Indian has been one of coercive assimilation. The policy has resulted in:

A. The destruction and disorganization of Indian communities and individuals.

B. A desperately severe and self-perpetuating cycle of poverty for most Indians.

C. The growth of a large ineffective, and self-perpetuating bureaucracy which retards the elimination of Indian poverty.

D. A waste of Federal appropriations.

II. National attitudes

The coercive assimilation policy has had a strong negative influence on national attitudes. It has resulted in:

A. A nation that is massively uninformed and misinformed about the American Indian and his past and present.

B. Prejudice, racial intolerance, and discrimination towards, Indians far more widespread and serious than generally recognized.

III. Education failure

The coercive assimilation policy has had disastrous effects on the education of Indian children. It has resulted in:

A. The classroom and the school becoming a kind of battleground where the Indian child attempts to protect his integrity and identity as an individual by defeating the purposes of the school.

B Schools which fail to understand or adapt to, and in fact often denigrate, cultural differences.

C. Schools which blame their own failures on the Indian student and reinforce his defensiveness.

D. Schools which fail to recognize the importance and validity of the Indian community. The community and child retaliate by treating the school as an alien institution.

E. A dismal record of absenteeism, dropouts, negative self-image, low achievement, and ultimately, academic failure for many Indian children.

F. A perpetuation of the cycle of poverty which undermines the success of all other Federal programs.

IV. Causes of the policy failure

The coercive assimilation policy has two primary historical roots:

A. A continuous desire to exploit, and expropriate, Indian land and physical resources.

B. A self-righteous intolerance of tribal communities and cultural differences.

In summarizing the above referenced statements it is inconceivable that a policy that has been strictly colonialist in approach toward Native American Education is going to change, unless that policy consistent with the educational philosophy is decolonialized in the American and made meaningful for Indian people in such a way it becomes a Liberation Road and an American Road, which is to say that it becomes Americanistic.

The Sisseton-Wahpeton Sioux Tribe views the failure of white-oriented education as not too surprising because we have not benefited (by and large) from educational programs arising from a system which has been an alien value system, utilizing an alien language of instruction, foreign teaching methods etc. The past century of pedagogy correlates hightly with such developments as increased crime rates, higher alcoholism rates, increased social disorganization in Indian communities, increased poverty relative to non-Indian populations, etc.

It becomes almost convincing that the conclusion that persons of Indian background, whether of "full" or "mixed-blood," are by nature, inferior, since they have notably failed to become successful participants in the dominant culture.

In any event, it would seem clear that the past century of white education has failed to help the Native American Community develop its own indigenous potential and has failed to assimilate the Indian into White society. Until the "colonialist" approach that had dominated educational programs offered to Indians, whether they are operated by the Bureau of Indian Affairs, by Missionary groups or by state institutions, has been altered in philosophical position with the following beliefs consistently adhered to:

The white man is wiser than the Indian and therefore has the right (or obligation) to make the decisions about the Indian's own future;

The Indian must be trained for participation primarily within white society;

Indians must not receive sophisticated training in a setting which might expose them to ideas which would threaten the status quo in Indian policy;

Indians must not control any educational institutions, or if they possess nominal control, actual power must reside in non-Indian hands, and

Native languages and cultures must not be taught, or if they are taught, they must be taught by non-Indians in a curriculum planned by non-Indians or in specialized anthropology courses designed to serve the often narrow purposes of "science" or of white middle-class students, and

Not much will change and Public Law 95-561, although very significant in approach and intent will fail to incorporate Indian input into educational programs at the local level. Just as the Special Senate Subcommittee findings in Indian Education: A National Tragedy—A National Challenge and the findings of the American Indian Policy Review Commission went unheeded, so to, will the Legislation of Public Law 95-561 fall by the wayside unless local public school systems attempt a sincere, meaningful solicitation of Indian input in the educational policies, curriculums and school boards that operate local education agencies. And only when we have clear, effective education can there be a lasting solution to the problems cited and it must be an education that no longer presumes that cultural differences mean cultural inferiority.

In the past the conflict with Public Law 874 monies replacing Johnson-O'Malley money is that there was no guarantee that Public Law 874 monies would be used to benefit Indian students. Such monies would go to the school district itself, and any benefit received by Indian students would only be indirect. Congress also had no control over the use of Public Law 874 money. School districts apply it in their operating budget as they see fit.

The Federal Government was prohibited from setting standards for its use or requiring, for example, that it be used for special Indian needs.

We wish to make a point that from our own experience locally, that during the 1959's and until the mid-60's, Indian people never had input, through the Federal programs, whether it was JOM, or 874, into the local school system. When Indian people began questioning the use/purpose of these funds by the school district it seems we began to have problems with the LEA. Therefore it is highly probable

Public Law 95-561 will make such an impact upon whether Indian parents participate actively in the education of their children at the local level.

In conclusion we make these recommendations based upon the historical relationship in education of the Sisseton-Wahpeton Sioux Tribe, Tribal parents and the Sisseton Independent School District 54-4, in regard to the implementation of the Impact Aid provisions contained in Title XI of Public Law 95-561.

We recommend:

1. That Sec. 1101(D)(3)(A) be strengthened by including the most appropriate method in the formation for the local educational agency include the Indian parent and Tribe.

2. That Indian parents be consulted and joint agreement by all parties involved determine the appropriate procedures. In other words, the LEA should not draft the policies/procedures, then present it to the Indian parents/tribe for the review and comments.

3. The Commissioner must consult with Indian parents/tribes if he or she proposed to waive the one-year limit for good cause in making payments to any/all entitlements to the LEA.

4. A clear definition be established by the Indian parents, Indian Tribes and the local Education Agency on what precisely is meant by (B)(i) Indian children claimed under section 3(a) participate on a equal basis in the school/program with all other children educated by the local educational agency;

5. That all materials that need to be disseminated under (B)(ii) be accomplished before hand not after the application for funds has been submitted;

6. We request some assurances from these regulations that if Indian parents/tribes request specific programs affecting the basic education of Indian students that they be implemented as conveniently as possible if it would not impose undue hardship upon the LEA;

7. In order to insure full participation of Indian parents some provision be included whereby Indians can serve on the school board because we have never succeeded in getting an Indian elected to the school board;

8. The commissioner provide personnel to give local training/technical assistance and to monitor implementation at the local level to assure the maximum implementation of regulations;

9. In the complaint procedure what criteria will be used and who will determine that criteria—we recommend Indian Tribes or its designee be involved in this process;

10. Lastly we recommend that the statute be more specific in the procedures it will utilize to get local school administrations to involve Indian parents and schools to work cooperatively.

We have not yet experienced how the local educational agency provides free public education for children who reside on Indian land because during the course of history when two governments enter into a Treaty each has proposed to give something in exchange for receiving the same. "For many years study after study and report after report have been issued looking toward improvement of the lot of our Indian citizens which, while resplendent with promises, have come to naught. We stress realization over promise, * * *. Namely, a means to achieve the guidance by Indian themselves of the education of their own children through national and local Indian boards of education.

We conclude our statement by reiterating a statement by Mr. Felix S. Cohen—Yale Law Journal, February, 1953:

It is a pity that so many Americans today think of the Indian as a romantic or comic figure in American history without contemporary significance. In fact, the Indian plays much the same role in our American society that the Jews played in Germany. Like the miner's canary, the Indian marks the shifts from fresh air to poison gas in our political atmosphere; and our treatment of Indians, even more than our treatment of other minorities, reflects the rise and fall in our democratic faith.—Felix S. Cohen—Yale Law Journal, February 1953.

We appreciate this opportunity to express our comments and recommendations. The Sisseton-Wahpeton Sioux Tribe would like to communicate its appreciation to the Committee on Education and Labor and specifically to the Subcommittee on Elementary, Secondary, and Vocational Education for their concern and dedication to fulfill a common goal of quality education for Indian children, adults, and Tribal governments.

Mr. Chairman, this concludes my statement.

Mr. KILDEE. Thank you very much, Mr. Simon, for your testimony. We will defer questions until we have heard from the next member of the panel. I would like to call upon Congressman Williams to introduce the next panelist.

Mr. **Williams**. Thank you, Mr. Chairman.

I first want to apologize to you and the witnesses for being unavoidably absent for all the testimony. As you know, Mr. Chairman, I am in another committee and I had no choice but to stay there, even though my interest in this matter is very high indeed.

I appreciate your giving me the opportunity to introduce my friend Joe McDonald. Joe is not only a fellow Montanan but a fellow teacher and administrator and coach.

Those of us in Congress live in fear that a coach is going to file for Congress against us because coaches get every vote from all the parents of the kids.

STATEMENT OF JOE McDONALD, TRIBAL COUNCILMAN FOR THE CONFEDERATED SALISH AND KOOTENAI TRIBES

Mr. **McDonald**. If they are winning.

Mr. **Williams**. Joe is president and director of the community college in my district in Pablo, Mont.

He is also president of the Affiliated Tribes of the Northwest and has long and varied experience, and we look forward to receiving your testimony today.

Mr. **McDonald**. Thank you, Pat, for the generous introduction. That was almost longer than my speech.

Mr. Kildee and staff members: It is a pleasure to be here. It is an area that I am vitally interested in and it is an area that Indian educators throughout Montana are vitally interested in.

I worked, as Pat said, throughout Montana as a public school teacher, as a coach. I have taught in various colleges in Montana and I served 8 years as the assistant superintendent and high school principal at Ronan Public School in the town in which I live.

It is with deep concern that my tribe responds to the rules and regulations written to carry out the provisions of Public Law 95-561, title XI, Indian education, part A, amendment to Public Law 874.

My tribe has supported the amendments to Public Law 874 because it was a legitimate attempt by Congress to correct some of the educational ills that affect the lives of our Indian children on Indian reservations.

This committee and staff went to great lengths to visit reservations. They visited with us and looked at our schools. They did this throughout the Northwest, I know.

I need not go into a discussion of the serious educational problems that Indian people suffer and the long list of sad results. Congressman Williams, in his work at the high school, has had an opportunity to observe that. You have read about them many times. It is for this reason our tribe followed very closely H.R. 15 as it grew into Public Law 95-561, and we have watched the rules and regulations develop very closely.

Several members of our tribe have worked on various task forces the BIA has to implement the law, and I am presently serving on the one on personnel. Karen Fenton has served on the one on functions.

We have a lot of people from the Northwest tribes serving in various capacities.

So I was really in a state of shock when I opened the June 29 Register and looked at the rules and regulations for this important act that we were all looking forward to and saw that it made up a total of one column and about a third of another one when the amendment itself is several pages long.

It really appalled me. I called Jeff McFarland of your staff and the BIA and others to see how this came about.

We have been very interested in this because of the way our reservation is constructed. The land was reserved for the Indians and then, of course, it was first allotted to individual Indian members by the Allotment Act. Then it was opened and declared excess property and opened to homesteaders. Our reservation was homesteaded in 1910.

Along with this about the same time in your treaty, Congress agreed to educational provisions and to fulfill these the Commissioner began to contract directly with public schools and to provide his educational commitment in the treaty of 1855.

As a result, by 1917, by the time of World War I, over half our children on our reservation were attending public schools.

If you recall, Indians were not citizens until 1924 so there was no attempt to get Indian input into the public schools at that time. There was no way they could have. Registration and active interest in school politics was very low on the reservation. They got active in national Presidential elections but in school elections Indians have always been hesitant to go to the polls because for many years they said you are not taxpayers and you can't vote in a local school district; even though they could.

Indian people will just be turned away one time and they will not go back to the polls and be embarrassed another time.

So registration and active involvement and in school politics on the Indian reservation have been very, very slow. Consequently, the non-Indian people on the reservation are not used to having Indian input into the operation of the local public school.

A few years ago we got wound up at Ronan and got two Indian candidates to run for the school board. Normally we have 600 people turn out to vote. The local Jaycees got on the phone and called and they offered drivers and they got people to come in and vote against those two Indian candidates. We had over a 1,000 people vote in that school election that day. It was right down the line: 850 for the other two non-Indian candidates and 150 votes for the two Indian candidates.

So our chance of getting input into the school system is not likely.

The two largest towns are Fulton and Ronan and neither district has ever had an Indian serve on the school board.

In answer to Parent Committees, we answered that folly very easily with the provision of Johnson-O'Malley and the rules and regulations, Parent Committees and title IV. As soon as the Parent Committees began to get active and address issues. Ronan passed an official school policy they would not receive those funds any longer, that there wasn't an educational need among the Indian students for Johnson-O'Malley or title IV funds. That is the way that was handled.

So for all these reasons we look to the amendments to Public Law 874 to really begin to solve some of the problems that we have on the reservation because 874 fund in the Ronan district is big money. It is in the neighborhood of $200,000.

A mill raises about $4,500 in our district, so you can see, it represents several mills in savings to taxpayers.

So, by coming in this way and forcing the consultation by way of this action, we felt, and the Congress, and Governor Quie when he served on this committee, felt it would merge and force this consultation and both parties would find really they are not so far off, and in reality they are not far off.

We feel that the focus of public education on my reservation is the assimilation of the Indian students into the mainstream. Total genocide of the Indian culture is the plan of the leaders in Lake County, by allowing it to die from the lack of practice and teaching of it. The ultimate goal of the non-Indian leaders on the reservation is the total dissolution of the Flathead Indian Reservation and all evidence of the Salish and Kootenai Indians, except what will be recorded in libraries, museums, and archives.

If an Indian culture is going to survive it must do so by use of its education system. If the Indians and whites are going to live side by side and in harmony on the reservation, they must do it by use of its education system.

We teach government; no mention of this act in the curriculum. We march kids and lead them up and send them over to the legislature. But yet we have never had the senior government class come into our chambers and find out what we are about. Yet you have the vast misunderstanding. I know Congressman Williams has received tons of correspondence from those not understanding the legal ramifications of trust property.

Students graduating from reservation high schools need to be as well versed in tribal government as they are in local and State government. Indian students need to be knowledgeable of their heritage in order to have the self-pride necessary to live a well-adjusted life. They have to know where they come from and the contributions the Indian people have made.

It is for these reasons that we have been looking at the Public Law 874 amendments as a partial solution to our educational problem. Section 1101 of Public Law 95-561 provides for consultation between Indian parents and tribes with the local school districts before the school districts are entitled to payments provided by the act. This amendment will force school districts to consult with the Indian people and thus force open communication between both parties.

We have viewed the proposed rules and regulations published in the Federal Register, June 29, 1979. We expected to see a consultation procedure spelled out that would direct the communication between the Indian parents and the public school district. We also expected to see the complaint procedure spelled out as well as the system for deriving the entitlement to each school district. The method under which a tribe would contract for 874 funds was expected by us to be described in the rules and regulations.

We felt that there had to be some way of indicating to the Commissioner that the tribe did consult with the LEA and agreed to the educational plan and approved of the LEA's application for Public Law 874 funds or SAFA funds. We realize that HEW has attempted to simplify the writing of rules and regulations by way of EDGAR—I even attended an EDGAR workshop and still could not get through the rules and regulations. We had access to legal help. I had to call the office here to get the general provisions. I cannot imagine parents, the general public being able to do the same thing. We wonder if the references made in subpart I of the proposed rules and regulations adequately insure the input of Indians in the local district's educational plan. When you make a reference as they do in EDGAR, does that insure that will happen, that is the question I have.

We are disappointed in the way the present rules and regulations are written. Subpart I needs to be more specific and not rely totally on references to 20 U.S.C. 238. There is no mention of the increased entitlement to 125 percent as stated in section 1101(d). Congressmen, we are very much concerned whether or not subpart I of the rules and regulations are complete enough to carry out the intent of Congress.

Thank you very much for allowing me time to present my tribe's views.

[The prepared statement of Mr. McDonald follows:]

STATEMENT BY JOE McDONALD, TRIBAL COUNCILMAN FOR THE CONFEDERATED SALISH AND KOOTENAI TRIBES

Honorable Members of Congress and staff, it is with deep concern that my tribe responds to the rules and regulations written to carry out the provisions of Public Law 95-561, Title XI—Indian Education, Part A, Amendment to Public Law 874. My tribe has supported the amendments to Public Law 874 because it was a legitimate attempt by Congress to correct some of the educational ills that affect the lives of our Indian children on Indian reservations.

I need not go into a discussion of the serious educational problems that Indian people suffer under and the long list of sad results that have occurred in the past 100 years. You have heard them and read about them many times. Our tribe has followed closely the development and progress of H.R. 15 as it grew into Public Law 95-561 and now as the rules and regulations are being drafted.

We have been interested in all phases of Title XI of this act and have spent considerable time and money in seeing that the act was passed according to the wishes of Indian people and implemented with full consultation of Indian tribes and Indian people.

The amendments to Public Law 874 have been of particular interest to us because we are one of the many reservations in Indian country whose reserved lands were allotted and then opened to homesteaders. As a result the reservation non-Indian population soon outgrew the Indian population.

To complicate the problem, the Commissioner of Indian Affairs in the early 1900's, began to contract with local public school districts to provide education programs for Indian children. Since Indian people were not citizens until 1924 and their children were attending public schools as early as 1919, there was obviously no input from the Indian people as to the education program for their children.

This lack of Indian input into the local educational program has continued from the early reservation days up until today. Even after Indians were given the right to vote, they were kept away from the school election polls because local officials would rule them ineligible because they were not local property taxpayers. In cases where Indians do control school boards, they still are hampered by rules of State accreditation standards or regional accreditation standards. Indian people have had no input into the development of these acreditation standards.

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In my school district on my reservation (Ronan School District 30, Flathead Indian Reservation) which is one of the largest school districts and has the largest enrollment of Indian students, an Indian person has never served on the school board. The Ronan School, by official board policy, will not receive and administer funds designated specifically for Indian education. Nor will they allow controversial Indian-White issues to be a part of the education program. Needless to say preservation of the Indian culture is not a part of the education program.

The Focus of public education on my reservation is the assimilation of the Indian students into the mainstream. Total genocide of the Indian culture is the plan, by allowing it to die from lack of practice and the teaching of it. The ultimate goal of the non-Indian leaders on the reservation is the total dissolution of the Flathead Indian Reservation and all evidence of the Salish and Kootenai Indians, except what will be recorded in libraries, museums, and archives.

If an Indian culture is going to survive it must do so by use of its education system. If the Indians and Whites are going to live side by side and in harmony on the reservation, they must do it by the use of its education system.

Students graduating from reservation high schools need to be as well versed in tribal government as they are in local and state government. Indian students need to be knowledgeable of their heritage in order to have the self pride necesssary to live a well adjusted life.

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We are disappointed in the way the present rules and regulations are written. Subpart 1 needs to be more specific and not rely totally on references to 20 U.S.C. 238. There is no mention of the increased entitlement to 125 percentum as stated in Section 1101(D). Congressmen we are very much concerned whether or not Subpart 1 of the rules and regulations are complete enough to carry out the intent of Congress.

Thank you very much for allowing me time to present my tribe's views.

Mr. KILDEE. Thank you very much, Mr. McDonald. We of course have shared your concerns on the completeness of those regulations.

Mr. McDONALD. I am pleased that you have taken the time to call a hearing and bring the people together. It is evident why we struggle so hard to see that the remainder of our programs remain with BIA. You can see what would happen if they were transferred with HEW. We were entitled to a column and a third for a very important piece of legislation.

Mr. KILDEE. Hopefully it will be remedied before the final regulations are published. That was the purpose of my June 22 letter and the purpose of these hearings today.

I will ask some questions of an individual, but if the other person would like to join in the answer, feel free to do so.

Mr. Simon, the act requires consultation with Indian tribes and parents prior to formulation of policies and procedures, yet you state in your testimony that such consultation has not taken place in your locality. Do you know why?

Mr. SIMON. Mr. Kildee, I think we were perhaps a little premature. That is to indicate our ignorance or haste to perhaps get funds under this act. But I think that is a good indication that a lack of understanding of this act itself, I think that is evident.

Mr. KILDEE. You feel that in addition to the rules and regulations, greater informational output from OE is necessary?

Mr. SIMON. Mr. Kildee, the reason why Indian tribes and specifically ours objected to the Bureau of Indian Affairs educational programs being moved to HEW is the fact we are finally understanding those programs. It is 7 years now after the passage of Public Law 93-638 that we are finally understanding the impact of this legislation. From that process of informational kits, pamphlets were provided to Indian parents in communities and Indian tribes, so we really understood the rights we had under this law.

Mr. KILDEE. How much technical assistance do you feel you will get from the BIA in this area?

Mr. SIMON. I think we will receive assistance if we request it, but I think that is one of the problems our tribe has had recently with the local area office that serves our tribe. Technical assistance was not fast in coming.

Mr. KILDEE. Mr. McDonald, would you like to comment on what kind of technical assistance you think you may receive from BIA?

Mr. MCDONALD. The old BIA, none; the new BIA, I think we will get good technical assistance. I think they are much more concerned and active. We have a lot more work to do with the BIA in our own area before we can expect assistance. In the Portland area, I work with the tribes in Oregon, Washington, and Idaho. I am sure they will get very good technical assistance from their area.

Mr. KILDEE. Do you think the tribal council will vest authority to act on complaints with any tribal body, or will they handle that themselves?

Mr. MCDONALD. It is my recommendation that we organize and bring together these committees we have; we could call that the Indian education practice. The regulations spell out procedures for parent committees. I would like to see our tribe adopt those.

It has been the policy of our council not to get involved in school district politics. We generally have stayed out of that.

Mr. KILDEE. Do you care to comment as far as your tribe?

Mr. SIMON. The policy of our tribe is to let the local Indian parent boards and committees be involved with the local school boards. I think they will continue that policy.

Mr. MCDONALD. The Indian parent committees, they need a lot of work. It is something new. They have just been involved in this 4, 5, or 6 years. They are growing. They need training and a lot of help.

These parent committees need technical assistance, and I hope that is one area that I have tried to look into, to help set up parent committees and provide the training so they will be able to work and manage their affairs.

Mr. KILDEE. We have a record rollcall going on in the House right now. It will take a few minutes to come back.

Maybe you can answer this briefly before we leave.

You cite some problems with the Ronan school district. Have you had discussions with them formally, the school board or the administrators, regarding part A, title XI; and how aware is the school board administration of this act?

Mr. **McDonald**. They are aware of it; they fought it. The superintendent came back here and met with the Association of Impact Aid schools. I did not even know they had an impact committee. So, they have been very actively involved. They know this is coming now.

We contracted Johnson-O'Malley funds, our tribe did; and we operated outside the school. They have now formally invited the parent committee to come back in with their funds. They have appointed an Indian, O'Leary Anderson, as superintendent in charge of Indian education.

The machinery is rolling now, and I look for things to change. We have a BIA person on the board, so I think things are going to change.

Mr. **Williams**. If I might interrupt, I will not be able to return because I have this vote and one in Interior Committee.

Mr. **Kildee**. Why do you not take the chair Mr. Williams, Mr. Erdahl, and I will go over and vote.

Mr. **Williams** [presiding]. I want to read into the record again the final paragraph of your statement, because I believe it is critical; and I will ask the chairman to forward your concerns to the appropriate people for a specific answer.

Your statement was:

> We are disappointed in the way the present rules and regulations are written. Subpart I needs to be more specific and not rely totally on references to 20 U.S.C. 238. There is no mention of the increased entitlement to 125 percent as stated in section 1101(d). Congressmen, we are very much concerned whether or not subpart I of the rules and regulations are complete enough to carry out the intent of Congress.

Mr. **Williams**. I think that is critical and we shall pursue it.

I want to address a general question perhaps to both of you. I share your concerns that an entire race of people may be assimilated to a point where their culture and heritage is abandoned except in libraries and museums. I think that would be a major national human tragedy.

My parents came from Ireland. It would be a tragedy if we did not continue some of the remembrances we have on that past, too.

But I want to make this point with you and get what I hope will be a brief response, then, Joe, you and I later can talk about it.

The genius of the American system is being able to bring in immigrants—and I realize you people are not immigrants, the only ones who are not. But the system that has melded us all together has been the schools. We have assimilated all people, the black, brown, yellow, the Irish, English, Lithuanians, and all the rest through our school system. It seems to me the majority opinion has been that has not been bad but rather it has been good.

Now, without prejudicing your remarks, tell me why that has acted in a reverse manner as to Indian people.

Mr. **McDonald**. I was a science teacher. We spend a lot of time with the various contributions that European scientists have made. I sang in chorus. We sang a lot of music with European origination. We spend a lot of time, 12 years, studying the English language and the various language arts, as we call them. We spend a lot of time studying history and social science, all from the immigrants' point of view, and all about the immigrants. And we do not spend any time studying Indian music. We do not have any Indian drums and leaders teaching our young ones to sing some of the very basic songs.

Mr. **Williams**. Joe, I grew up in Butte and we did not spend any time talking about Ireland.

Mr. **McDonald**. But in your curriculum, you had a lot of references to Ireland. That along with George Washington. Why could we not have Chief Charlo along with Lincoln? Why not Chief Koostatah, and so forth? So kids recognize they are not some alien that is unwelcome in a classroom because his parents are not "local taxpayers"?

Mr. **Williams**. I think you have made a good point; and Mike, I apologize to you. I know you would like to respond, but I have a vote.

If you have some thoughts you want to send me, you may do so. I am as interested in this assimilation of Indians as I am in any question that comes before the Congress.

At the suggestion of staff, if you want to respond, Mike, I will read your response in the record. I will appreciate that.

Mr. **McDonald**. The one thing about Mike's reservation is, it is one of those disestablished reservations.

Mr. **Williams**. We will hold the meeting open until after the response.

Mr. **Lovesee**. If Mr. Simon will respond on the record, then it will be there. We will have an opportunity to see it. Then we will stand in recess until Chairman Kildee returns.

Mr. **Simon**. Our people have never been assimilated into the mainstream because we have taken our cue from our forefathers, that this is our land. Everything hinges upon what I stated in my testimony, that this land is seen as our land. It is going to be even more difficult for Indian people I see in the future as resources in this country start to dwindle, and a lot of those resources are found on Indian reservations. You can see why Indians do not want to be assimilated into the larger society. We would lose those resources.

We have a lot of poverty on our reservations. We do want to live side-by-side with the non-Indian and cooperate and work with him, but by the same token, I don't think our culture should be looked upon as inferior. I think we have every right to be on an equal basis just as any other culture.

I think that is why we have never and will never be assimilated into the white culture.

Mr. **Lovesee**. We will stand in recess until Chairman Kildee returns.

[Brief recess for vote.]

Mr. **Kildee**. I appreciate the testimony of Mr. McDonald and Mr. Simon. I have no further questions myself. Do you have anything to add to the record at this time?

Mr. **McDonald**. I have one comment. Since this is a vocational committee too, we had a 1-percent set-aside the Office of Education sets aside for co-education for Indian tribes and organizations. The Bureau is to match that and they never have.

I thought maybe this would be a good place to trade off the Office of Education and allow them to give input into the regulations for this important piece of legislation and in turn the Bureau come up with the match we desperately need in Indian country.

Mr. **Kildee**. Will counsel respond?

Mr. **Lovesee**. You brought up a very interesting point. Since you brought it up perhaps I can make a statement which then would serve as the basis for input from you and other interested people.

The reason the BIA has not matched those funds is there has been a waiver put into the appropriations bill each year allowing them an exemption from having to follow that particular section of the law. For fiscal year 1980 another waiver is included in the appropriations language.

Therefore, it looks unlikely that they will meet it in fiscal year 1980. The only remedy for that situation would be input from concerned individvuals.

I suggest that input be directed to the Appropriations Committees of the House and the Senate.

Mr. **Kildee**. Again I would like to thank Mr. McDonald and Mr. Simon for their testimony this morning.

I believe our last witness is Mr. Jim Maza, executive director of the Impacted Area Schools, accompanied by Glenn A. Barnes of the Todd County School District, Mission, S. Dak.

You were referred to this morning in earlier testimony. Those of us who serve in the Congress are very aware of your association. I heard this morning that the Fairfax County Board of Commissioners is determining how they might make up some of the possible loss of impact aid in the schools.

STATEMENT OF JAMES MAZA, EXECUTIVE DIRECTOR, IMPACTED AREA SCHOOLS ASSOCIATION, ACCOMPANIED BY GLENN A. BARNES, TODD COUNTY SCHOOL DISTRICT, MISSION, S. DAK.

Mr. **Maza**. Yes, we are interested in this forum but we also have some appropriations problems this year.

Mr. Chairman and members of the staff: As we have talked to the staff earlier, Superintendent Barnes and I are going to share the time allotted to us so he can present some remarks from the school district vantage point.

I wanted to say at the outset, however, that this piece of legislation, the work last year in the authorization process and the fact that you are seeing this piece of legislation through even the regulation process is really something for which you should be highly commended.

We found in our consultations with staff and members of the committee when this legislation was being passed that everyone we met with was extremely flexible and interested in receiving the maximum benefit of everyone's views on the subject of impact aid and Indian representation and participation in schools in planning and programs.

So, therefore, we are delighted to be back again. We have some comments to make today but I know I have gleaned quite a bit from the discussions I heard this morning. I think that we all have a better sense of the situations as given to us by several of the witnesses.

Just quickly, my name is James Maza and I am executive director of the Impacted Area Schools organization. Impacted Area Schools is an association of approximately 1,100 school districts who are eligible to receive Federal aid to education pursuant to Public Law 81-874, as amended.

A significant number of these school districts receive funding based on the enrollment of children who reside on Indian reservations and tribal land which are tax exempt by Federal law.

Our organization was consulted by the staff of your committee during the consideration of H.R. 9810 and what later became title XI of Public Law 95-961. We were permitted to comment on the bill as the legislative process went forward.

Today we are here again to comment on the implementation of the provisions contained in title XI and the proposed regulations of the Office of Education. Many of the comments we made earlier, we repeat today.

Impacted Area Schools claims to have no answer to any or all of the complex problems or critical tensions that are involved in the area of Indian education. The best advice can and must come from those with firsthand knowledge of the situation. However, I have gleaned several thoughts from school district administrators that might be helpful.

There has been a lot of confusion. Part of it is that you have talked to so many people when this legislation was in an evolving process. Now that it has come to a showdown we have a situation where the regulations came out and school districts opened up their booklets and found little help in understanding how they should begin the job of giving Indians participation in planning and how this procedure, new to them, is to go forward.

First, we recognize that all children have a right to equal educational opportunity. We agree with the Congress that school districts that deny such equal opportunities should be denied the benefit of Federal financial assistance.

Second, we firmly submit that school boards elected by voters in a free election should remain the governing and decisionmaking authority for the local school district.

Third, we remind the committee that impact aid traditionally has been general, noncategorical Federal aid designed to replace and supplement tax dollars lost to school districts because of Federal activity and/or to provide assistance to districts burdened by federally connected enrollments.

Therefore, we suggest that to protect the rights of Indian students and to guarantee the continuation of local school board control more information must be provided to all parties as to what this act means and what rights and responsibilities govern the school district and the tribal representatives.

The primary problem I have observed from my conversations with school superintendents is confusion and lack of information. Many people are convinced that the act includes Indian tribal vetos of school programs and policies. Some people believe that the new law significantly interferes with the administration of schools regarding the hiring practices and personnel decisions. In sum, there has been no authoritative source for information outside the act itself.

I guess the acid test of any legislation is the administration of the program, along with the promulgation of regulations.

To repeat and emphasize some of the things we heard from others this morning, our schools need some way to find maybe not the sole repository of information about the way this program and the provisions operate but some better guidance than the proposed regulations have provided.

What we heard this morning emphasizes such language as the application and evaluation and program planning should be disseminated [illegible] the requirement that the parent be actively consulted and involved in the planning and development of the programs, which may [illegible] more questions than they provide answers.

What I am trying to stress is that in our parade of horribles we have no interest in sitting here and trying to conjure up the worse kinds of situations that occur, but the first thing that comes to mind is the situation for both the tribal representatives and the district—for a hearing officer to be sent into a school district without the tools to solve these disputes.

All your work might be undone if from the Federal Government comes a representative who is going to try to work in a vacuum. It really boils down to some of the kinds of problems that have confronted us in Indian education also and in many other aspects of the Federal legislation. What constitutes equal access? Whether it comes in regulations or in other forms I think it is important that some guidelines be given as to what is meant by actively consult? What is meant to give equal access before a hearing officer is sent or before a school district can affirmatively carry out its burdens under the act?

Again, I would strongly suggest that this be done on the administrative level before hearing officers go out into the field because I don't think it is fair to school districts or tribal representatives for such hearing officers to operate as a super school board to oversee the wisdom of elected officials. Nor do I think it is fair to the individual himself.

Again, I appreciate the opportunity to be here. I hope the Office of Education will proceed as they have promised to kind of flesh out these regulations.

Lastly, I think it is important that whatever guidelines come out of the Office of Education, they be within the formal regulation process. For example, this morning you talked about the memorandum from the Office of Education that was sent by Mr. Stormer to School Districts phrased in the terms of these guidelines. Not to be critical, in particular of Mr. Stormer or the administration of the program, because most times we find them quick to respond to all our needs, however, school districts were sent this memorandum which paraphrases the law and says several times, "LEA must furnish a statement describing policies and procedures that have been established; a description of how the tribes and parents were informed, consulted and involved, and the extent to which they participated in formulating the policies and procedures established, whether the names and mailing addreses of the tribal leaders are available in district records, and sets out a criterion for these statements to be filed by districts.

I just think that the process of regulation is a better process for bringing about a better set of guidelines. There is a chance to comment and to respond to regulations and in a sense the memorandum coming out without any chance for participation by tribal representatives should not be the way to go.

Mr. **KILDEE.** If I may interrupt, the bells for attendance have rung. I will cast my vote and be right back.

[Brief recess for vote.]

Mr. **MAZA.** The school districts hope the Office of Education will provide the requisite support.

Mr. **KILDEE.** Thank you very much. I think you heard me tell the Office this morning that regulations should be clear for all the groups involved.

[The prepared statement of Mr. Maza follows:]

PREPARED STATEMENT OF JAMES W. MAZA, EXECUTIVE DIRECTOR, ON BEHALF OF THE IMPACTED AREA SCHOOLS ASSOCIATION

Mr. Chairman and members of the House Subcommittee on Elementary, Secondary and Vocational Education, my name is James Maza and I am Executive Director of the Impacted Area Schools organization. Impacted Area Schools is an association of approximately 1,100 school districts who are eligible to receive federal aid to education pursuant to Public Law 81-874, as amended. A significant number of these school districts receive funding based on the enrollment of children who reside on Indian reservations and tribal land which are tax exempt by Federal law.

Our organization was consulted by the staff of your Committee during the consideration of H.R. 9810 and what later became Title XI of Public Law 95-561. We were permitted to comment on the bill as the legislative process went forward. Today we are here again to comment on the implentation of the provisions contained in Title XI and the proposed regulations of the Office of Education. Many of the comments we made earlier, we repeat today.

Impacted Area Schools claims to have no answer to any or all of the complex problems or critical tensions that are involved in the area of Indian education. The best advice can and must come from those with first hand knowledge of the situation. However, I have gleaned several thoughts from school district administrators that might be helpful.

First, we recognize that all children have a right to equal educational opportunity. We agree with the Congress that school districts that deny such equal opportunities should be denied the benefit of federal financial assistance.

Secondly, we firmly submit that school boards elected by voters in a free election should remain the governing and decision making authority for the local school district.

Thirdly, we remind the committee that Impacted Aid traditionally has been general, non-categorical federal aid designed to replace and supplement tax dollars lost to school districts because of federal activity and/or to provide assistance to districts burdened by federally connected enrollments.

Therefore, we suggest that to protect the rights of Indian students and to guarantee the continuation of local school board control more information must be provided to all parties as to what this Act means and what rights and responsibilities govern the school district and the tribal representatives. The primary problem I have observed from my conversations with school superintendents is confusion and lack of information. Many people are convinced that the Act includes Indian tribal vetoes of school programs and policies. Some people believe that the new law significantly interferes with the administration of schools regarding the hiring practices and personnel decisions. In sum, there has been no authoritative source for information outside the Act itself.

The acid test of any legislation is the administration of the program, along with, the promulgation of regulations. It appears from the proposed regulations that Title XI will be carried out solely by adjudication of grievances. At best, this allows flexibility and recognizes the wide array of individual situations. However, this process by itself gives little advance guidance to school districts regarding such questions as who represents the tribe, what happens in the case of intra or inter tribal disagreement, or what "application, evaluation and program plans" are to be disseminated or how tribes and parents are to be "actively consulted and involved in the planning and development of the program."

I believe that school districts certainly do not want over regulation. That is settled. However, the first step in implementing this program is to promote a real understanding of each party's rights and responsibilities. The Office of Education must provide the definitive guidelines, if the intent of the Act is to be realized. The tensions that exist in educating Indian children in public schools will not be eliminated by the provisions of Title XI. However, if properly administered and given guidance and support from the Office of Education, the school districts are sure to work for the best and equal education for all children.

Mr. KILDEE. We will now hear from Mr. Barnes.

STATEMENT OF GLENN A. BARNES, TODD COUNTY SCHOOL DISTRICT, MISSION, S. DAK.

Mr. BARNES. Thank you, Mr. Chairman.

Mr. Chairman and members of the subcommittee, I am Glenn A. Barnes, superintendent of the Todd County School District, Mission, S. Dak., located entirely within the Rosebud Indian Reservation. Our district has an enrollment of about 1,800 students, with approximately 80 percent of them being of Indian descent. I am pleased to be offered the opportunity to comment briefly on the U.S. Office implementation of the impact aid provisions contained in title XI of Public Law 95-561.

Before getting to any specific comments regarding the law or proposed rules and regulations, I think it would be worthwhile to quickly review some of the history of the legislation as it pertains to Indian education.

I think that we can all agree that most Indian reservations are economically poor, so it would naturally follow that school districts located on or near those reservations would also have severe financial problems. Indian education is expensive due to a combination of factors including geographic, social, health, and cultural differences.

For those of us who have for a period of years been administrators of public schools with a large percentage of Indian students, Public Law 93-638 or the Indian Self-Determination Act that provided for a phaseout of Johnson-O'Malley basic support marked the beginning of the most critical funding period in our existence.

We are most appreciative of the work that this subcommittee and Congress as a whole--and I might add, Mr. Lovesee and Mrs. Vance—the work they have done to give us hope that some of our financial problems would be solved, but we sincerely hope that it will not be at the expense of taking the right to manage the public school from the duly elected school board.

The two major problems that had to be addressed in the effort to help the Indian impacted school district were the funding vehicle and at the same time provide a means for meaningful involvement of Indian parents in the educational program.

This latter problem did create much discussion and some differing opinions both in Congress and in the field. It centered around providing opportunities for meaningful involvement but at the same time not setting up another super school board that could prevent the regular board from carrying out their legal responsibilities as mandated by the various State constitutions.

We feel that the final provisions of the law does provide for this balance. So then our next concern was what the accompanying rules and regulations would say. My first impression after reading the proposed rules and regulations was a concern on the brevity of the language and a further concern on what appeared to be a rather broad power of discretion in the hands of the Commissioner of Education.

I did, however, recently receive a copy of the "Requirements To Insure Tribal and Parental Involvement in the Education of Children Residing on Indian Lands" from the SAFA Office and it does provide some clarity on what will be required from the public schools upon application for funds.

I do have one concern, however, and that deals with the policy and procedure that must insure that children participate in school programs on an equal basis with all other children educated by the LEA. One cannot disagree with that provision just so long as the intent is to insure equal opportunities as opposed to the requirement of setting up a quota system based on student population percentages for various classes and student activities. This was addressed earlier today.

I have further concern about the proposed rules and regulations being developed by the Bureau of Indian Affairs which provides the mechanism for the tribe that elects to opt out of the public school district.

Questions which will have to be answered are:

One, does the tribe or the parent make the decision as to where the child attends school?

Two, is it possible for Public Law 874 funds to end up in a BIA or tribally controlled school?

Three, if the tribe elects to establish another school will it have to meet all the requirements as outlined in part B of title XI?

I realize that the proposed rules and regulations covering those points have not yet been published but would point them out as something to be watching for. And I would like to add two or three comments.

Earlier this morning, you heard some reference to some public schools attempting to frankly stifle the Indian culture, the language, and this could very well be happening in some schools.

I do not think that our school is that much better than any of the other schools; I think somewhat typical of a school district educating Indian children, but two or three points.

One, we have had Indian representation on our school board since the 1950's. At times, it has been majority controlled. At other times, it has not been majority Indian controlled. At the present time we have two Indian, three non-Indian. The two Indian representatives are not token Indian representatives. They are both full-blood Indian.

We have boards dealing with title IV, Johnson-O'Malley, title I. We attempt to combine those programs as much as the Federal regulations allow us so they are conversant with all the programs, not just one in particular.

We also have Indian studies classes both elementary and secondary dealing with the language, culture, history. In American Government, we presently have one unit which deals strictly with tribal government. We are in the process of developing a second unit that will be completed about the first of the year that deals with the individual rights and responsibilities of the Indian and non-Indian living on Indian reservations. By the way, the Indian studies classes are also open to both the Indian and non-Indian students.

So, I think some of the schools are trying to address some of the things that we are talking about this morning and some of the things we feel are extremely important.

I just wanted to make that point for the record, that there are public school districts which are trying to do something for Indians.

Thank you for the opportunity to appear before your committee, and I will be glad to answer any questions you might have.

Mr. **Kildee**. Thank you, Mr. Barnes.

Mr. **Kildee**. Jim, could you be more specific on the regulations needed? Congress is usually ambivalent on rules and regulations. We always fear the agencies will go way beyond the intent of Congress there. We want to clearly draw the line on policy. However, at the same time we recognize the need for rules and regulations to be more specific than Congress can be in writing legislation.

Can you give us some ideas as to where you think the rules and regulations might be more specific?

Mr. **Maza**. Quite seriously, I think the problems that were conveyed, and I guess this is in a sense a cumulative issue which has been developing all morning, is maybe the problems we deal with in terms of equal access. Al—referring to majority counsel, Mr. Lovesee—and I were talking during one of the breaks this morning, maybe one of the ways to approach this, because we realize in your legislation you tried to have an adjudicative process which bases individual consideration on facts and recognizes the wide disparity between local districts and their problems. But I think the regulations might include, I believe, the general counsel who was here today from HEW allowed it could be done, included some kind of interpretation which mentioned the types of subjects that might be the basis for a grievance procedure.

My first impulse would be a form of subtraction. It does not go to it, but what it does is kind of give examples as to access. It defines maybe a little more, as you were using the word, "complete," a more accurate approach to the deficiencies of access in terms of meetings. Both Glenn and I were saying in the way Mr. Stormer did in his memorandum, to call for a statement of meeting times and places, number, who was contacted in regard to such meetings, and I think this was the intent of the Congress and certainly our understanding of the legislation, that it would provide basically an ongoing communications network or establish communication linkage between the school districts and the tribes and the parents. To have, as Mr. Stormer suggests, the application include a short statement of summary as to how they approach it, so first of all the school district is free to experiment and also bend its kind of practices to the local need. At the same time I think something in the way of defining what is not grounds for grievance should be set forth, not that we are asking the school district be given the right to run roughshod over individual Indian concerns, but the school districts may be reassured that under Federal law, they still have the right, the responsibility, and duty to administer school districts, but that they do so fairly without discrimination to any children.

So again I am in a sense groping, but I think the regulations might be able to get at the problems we are expressing today in an interpretive sense providing the guidelines Mr. Stormer's memorandum explains, but yet not box us into a situation of what is good for one district is good for another district in the way of tribal representation.

Mr. KILDEE. Thank you very much.

Is there anything that OE has published yet that would indicate they intend to interpret the law to mean quotas?

Mr. BARNES. No, none that I have seen. It is something I do not want to see.

Mr. KILDEE. But there is nothing yet that would indicate that.

[Witness indicated in the negative.]

Mr. KILDEE. What steps have been taken in South Dakota by the schools to formulate the policies and procedures of part A, title XI? Have these included consultation with tribes and parents?

Mr. BARNES. All that much has not taken place formally because we are in the process. We have had informal conversation in our district with tribal leaders or members of the tribe who are involved in education, some preliminary discussion. However, we were really waiting to get something a little more concrete in the direction we had to go before we come up with any form.

In the case of school districts, in our association of impacted school districts we have had some discussion on whether or not we would want to try to develop a statewide policy or maybe each individual district would speak to their unique needs. I do not think that has been resolved.

Mr. KILDEE. Let me ask the same question I asked of Mr. Maza. Have you any specific suggestions as to regulations, what things you would like to see included or perhaps areas subtracted?

Mr. BARNES. One area I would be concerned about if it is put in, and Mr. Maza addressed this, and that is if it would be so rigid—I think just about every school district has unique problems, especially those located on Indian reservations. Some districts frankly would not be able to meet the requirements.

For instance, the problems of the gentleman from Oklahoma would not necessarily be the same as those we have, because we are located on the Indian reservation, basically one tribe, one council. I would hate to see it so rigid that it would make it impossible in some cases for all districts to live with.

Mr. MAZA. I think it is important; I think what I have learned this morning is one or more hesitation as to the regulations, and we are not by any means disparaging the Office of Education, but it is the succinctness, the emptiness on the regulations also signals the fact they are not quite sure of how to proceed. They are not quite sure of how this legislation is to be put into action. I am afraid given this vacuum, their people would be in the field attempting to adjudicate grievances. The officers come here and maybe act as the most important actor in this whole process, and they are not sure.

So part of the skimpy regulation also signals for us a problem, and that is that the Office of Education, BIA might not have fully thought this thing through and understood how the process would go forward.

Mr. Kildee. I want counsel to now address several of your concerns, Mr. Barnes.

Mr. Lovesee. Mr. Chairman. I will address the questions on page 3.

The Committee during the last Congress and this Congress has always taken every opportunity to make these hearings informational to the field, as well as input mechanisms.

No. 1, does the tribe or the parent make the decision as to where the child attends school?

I can only address the intent of the statute, and that was not to interfere with the ultimate right and responsibility of the parent to make the decision as to where the child would go. The tribe makes the decision with respect to the pullout option provisions and certainly the tribe has the full authority, under sovereign powers, to use what internal processes it might have to influence the parents who make up the constituency. However, under most State constitutions and the Constitution of the United States, the parent has the ultimate option to decide where the child will attend school.

No. 2, is it possible for Public Law 874 funds to end up in a BIA or tribally controlled school?

No Public Law 874 funds would be transferred. The funding for those schools is provided for in Public Law 93-638, title I funds, such supplemental or add-on funds as are necessary for construction and startup costs and as are given by the Congress at that time. However, the Public Law 874 funds would not continue to flow to the school in the absence of the children which originally attracted it.

No. 3, if the tribe elects to establish another school, will it have to meet all the requirements as outlined in part B of title XI?

That is a two-pronged question. If it is a Bureau school, the answer is yes. If it is a contract school, most of the so-called requirements as outlined in part B do not apply to contract schools. They provide outlines or guidance for contract schools, but they are not binding or mandatory since contract schools are carried under Public Law 93-638, title I. They would, however, draw their funding from title XI, part B.

Thank you, Mr. Chairman.

Mr. Kildee. Ms. Vance.

Ms. Vance. No questions.

Mr. Kildee. I want to thank all of you. We originally had two other witnesses who were not able to be here. But the final record will be kept open for their submitted testimony.

This completes the hearing. The subcommittee will stand adjourned.

[Whereupon, at 12:52 p.m., the subcommittee was adjourned, to reconvene upon the call of the Chair.]

[Material submitted for inclusion in the record follows:]

Department of Health, Education, and Welfare,
Office of the Secretary,
Washington, D.C., July 26, 1979.

Hon. Dale Kildee,
U.S. House of Representatives, Washington, D.C.

Dear Dale: As you know, Chairman Perkins has requested that Ms. Inez Smith-Reid, Deputy General Counsel for Regulations testify before Subcommittee on Elementary, Secondary, and Vocational Education on July 27. Ms. Smith-Reid is currently on annual leave and will not return until next week. Persons acting on her behalf are not as familiar with the Department's "Common Sense" policies governing the size and content of departmental regulations. We will review the application of this department-wide regulations policy on the Indian Education program regulations under the Education Amendments of 1978 (Public Law 95-561) with you and your staff when Ms. Smith-Reid returns. I expect that this matter can be resolved in a mutually satisfying way.

In addition, the concerns expressed in your letter of June 22, 1979 to former Commissioner of Education Ernest Boyer will also be reviewed, along with those of others who have and will comment on the proposed regulations published in the Federal Register.

I will be in touch with Mr. Lovesee to arrange a convenient time for us to meet as soon as Ms. Smith-Reid returns.

Sincerely,

William A. Blakey,
Deputy Assistant Secretary
for Legislation (Education).

The Navajo Nation,
Window Rock, Navajo Nation, Ariz., July 30, 1979.

Hon. Dale E. Kildee,
Chairman, Oversight Committee on Public Law 95-561, Cannon House Office Building, Washington, D.C.

Dear Mr. Kildee: Our task force and the Education Committee of the Navajo Tribal Council have reviewed the proposed regulations for Part A, Title XI of Public Law 95-561. The enclosed comments represent the results of this review and express on concerns and recommendations. I know you will give the issues and problems raised in this document your fullest consideration. We appreciate the opportunity to make our views known on the regulations pertaining to this important legislation and look forward to your continued support.

Sincerely yours,

Peter MacDonald,
Chairman, The Navajo Tribal Council.

Enclosure.

RESOLUTION OF THE EDUCATION COMMITTEE OF THE NAVAJO TRIBAL COUNCIL

Authorizing the Approval of the Public Law 95-561 Recommendations and Comments on Impact Aid, (Public Law 81-874, as Revised by Title XI—Part A, Section 1101) Pertaining to the Proposed Rules Governing Indian Education.

Whereas:

1. By Resolution No. CJ-9-57, the Navajo Tribal Council has authorized the Education Committee to determine educational policies for the establishment, improvement, expansion and maintenance of a unified education system; and,

2. Promulgate, publish and enforce all legislation enacted by the Navajo Tribal Council concerning matters of Education; and,

3. Represent the Navajo Tribal Council on all matters pertaining to Education at the local, regional, state and federal governments; and

4. The Education Committee has reviewed the proposed rules and their implications with regard to Impact Aid, Public Law 81-874 as revised by Title XI-Part A, Section 1101 and has received input from Navajo Educational entities on the proposed changes; now therefore be it

Resolved That: 1. The Education Committee of the Navajo Tribal Council hereby approves and submits the attached recommendations and comments on the revision of Public Law 81-84, Title XI, Part A, Section 1101.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Education Committee of the Navajo Tribal Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 5 in favor and 0 opposed, this 30th day of July, 1979.

HARVEY W. KERRING,
Chairman, Education Committee
of the Navajo Tribal Council.

THE NAVAJO TRIBE—COMMENTS ON PROPOSED REGULATION PUBLIC LAW 95-561, TITLE XI, PART A, SECTION 1101(d)

The comments that follow are developed in terms of the information contained in the handouts of the National Task Force at their regional information hearings.

The proposed definition of "Tribal Designee" is inconsistent with the use of this term in other sections of the legislation in that the tribe itself is allowed to determine who or whom this shall be; we endorse the Tribe's right to decide in this matter and reject the proposed definition put forward by the task force.

The proposed statement of policy is a positive one and should receive the fullest consideration. The suggestion here for the Federal government to make it a policy to provide financial assistance is essential for effective implementation of the legislation. With inadequate funding, this Subpart of the law will become meaningless and therefore ineffective.

If the tribe chooses to withdraw students from the school, the options open to them (contracting or Bureau placement) are already available, but have been rarely used in the past. There is no reason to expect that these alternatives would suddenly be exercised under the law particularly since no new monies are available to support pursuing these options. Furthermore, placing the children in Bureau boarding schools, the most likely Bureau placement on the Navajo, runs counter to both Tribal desire and Bureau policy which seek to keep children in day schools near their families. If the children are withdrawn from the Public Schools, the regulations should stipulate that the funds should follow them to their new educational setting.

The proposed application process (Subpart C) recommends additional conditions to the existing Public Law 93-638 contracting process. Under Section 000.9 (b) a referendum is called for authorizing the tribe to contract under Public Law 93-638. This should be a matter for the Tribes to decide and the same applies to (d) (1) and (2) concerning eligibility for voting in the referendum. A referendum would appear to be an expensive and impractical step, if it becomes a condition to contracting every time that the Tribe wishes to withdraw students.

Under the following section, Contract Information, a very detailed and elaborate set of data is to be furnished, such as, a ten year comprehensive community development projection. Many tribes do not have the capabilities to collect such information and in many cases the information does not exist. Where it does exist, it has not proven to be reliable because of the many uncontrollable factors affecting development on Indian lands, such as congressional appropriations, future availability of Indian professional and skilled workers, etc. The Bureau itself proposed a similar, detailed list of data for deciding school construction priorities a couple of years ago and eventually rejected the idea as being both too detailed and too difficult to obtain. Finally, much of the information would have to come from the public schools themselves and neither the State nor the district is currently under any obligations to provide this data to Tribes; it is even less likely that they would cooperate, on a volunteer basis, in providing this information following an emotional hearing process.

Under Part (c), Section 000.11 (Educational Services) who in the Bureau is going to undertake these service and placement activities—the Area, Agency or Central Office? Who decides how and where the children are to be placed in the Bureau Schools? For Operational Support (Section 000.12), the request for supplemental appropriation would receive more serious Congressional consideration if the Impact Aid office were to survey its own federally assisted schools, on or off reservation, and come up with several alternative models that have been found to work. These models could become the standards for guiding schools in the direction of future programs and at the same time give Congress some confidence that their appropriation will have a beneficial effect.

There is no mention in the proposed regulations or the law of any sign-off by the Tribe on the district's plan, yet some measure such as this is needed to guarantee effective involvement of the Tribe. The Navajo Tribe has also stressed in previous testimony that it is concerned with the feasibility of implementing Part A, e.g., no new money is made available for starting schools. The entire proposal rests upon a unprecedented interaction and involvement between Schools, districts, States, Parents and Tribal government. The Public School Districts on the Navajo number 25, cover portions of three States and have never been organized on a regional, much less State basis either on or near the reservation. Parents live in widely scattered and isolated locations and many themselves have not completed a secondary, sometimes even an elementary, level of education. All past efforts at involving these three groups on either a local or regional level have fallen short of full success. Three possible remedies can be put forward: (1) The Impact Aid office develops and disseminates models of effective involvement and interaction; (2) Monies are made available to school districts and Tribes to mutually research and develop effective systems of cooperative involvement over a five year transition period; (3) Part A is deleted from the legislative as being too impractical to implement. We would support the second remedy.

On the topic of impracticality, the complaint procedures require the Tribe to gather and present evidence with no mechanism or authority to gather evidence from the source of the complaint—the school district. This puts the schools in a position of both denying the Tribal and/or parental complaint and also having control over the evidence that would incriminate them (i.e., student, administrative and technical record and data perinent to the complaint). How many hearing officers could be identified now who would have experience with Impact Aid, with the local Indian Communities and with the new, unconsolidated educational references: the law, EDGAR and the regulations? Is withdrawing funds really an effective motivation when the result might be either the deprivation of services to Indian children either through the loss of those funds or through the school district deciding that it is not worth it to apply for the funds considering the complexities and uncertainities involved? Perhaps more effort and funding should be directed at strengthening the cooperation between schools, parents and Tribes rather than setting the stage for threat, confrontation and separation through the hearing and opting our processes. One remedy, supported here would be to allow Tribes the option of being a State Education Agency thereby permitting the Impact Aid monies to come to them for distribution.

What provisions are made for the non-Indian and non-Tribal parents and/or guardians to exercise their rights and become involved when their children are entitled to Impact Aid as students at an Indian/reservation school? What are the options when there are disagreements over opting out between either the parents themselves or between parents and Tribes?

APPENDIX

PYRAMID LAKE RESERVATION POSITION PAPER AND PUBLIC LAW 95-561

PROPOSED BUDGETS

The school board of the proposed school on the Pyramid Lake Reservation is presently considering two options in establishing a school at Nixon, Nevada. Ideally, the community would prefer that the school be initiated and operated for school year 1979-80. They see the need to provide immediate educational services to the high school students on the reservation. Simultaneously, they find merit in delaying program commencement in an effort to develop their educational comprehensive plan and apply for supplementary and grant award appropriations to support basic academic program cost.

The school board has not arrived at a decision in regards to which option is the most viable. This will be determined during late June or early July of this year. In an effort to present the proposed cost of these alternatives for contracting with the Bureau of Indian Affairs in operating a school, two program budgets have been prepared and submitted.

Option I, presents the total funds requested for start-up and initial school operation cost. Start-up cost have been identified separate from school operation cost since added expenses are accrued in beginning a school year. Established schools do not experience the same need for appropriations since their programs in most cases is categorized as "continuous". Option II addresses itself to the cost needed in completing the Comprehensive Program Model and by the Bureau of Indian Affairs and/or the Department of Health, Education, and Welfare.

The school board at Pyramid Lake ask that both options be given full consideration. It is expected that the board will identify their preference in the near future.

Pyramid Lake Reservation, Nixon, Nev., school operation budget, fiscal year 1980

Administration:	
Teaching principal	$23,000
Secretary (part time)	4,000
Administrative equipment repair	500
Administrative travel	3,000
Total	30,500
Instructional:	
Teacher salaries	67,056
Counselor salaries	14,520
Teacher aide salaries	15,755
Substitute teachers	1,000
Student travel	2,000
Teacher travel	13,000
Departmental supplies, materials, and services	10,500
Instructional supplies, materials, and services	1,000
Girl's athletics	5,800
Boy's athletics	6,900
Total	137,531
Library:	
Librarian (part time)	6,500

Supplies, materials, and services	1,500
Equipment repair	750
Total	8,750
Nurse:	
Nurse's salary	5,000
Supplies, materials, and services	400
Total	5,400
Food services:	
Cook's salary	7,000
Part-time cook	3,500
Food supplies	10,000
Equipment repair	400
Total	20,900

Option I—Start-Up program cost, fiscal year 1980

Administration:	
Program development director	$22,000
Secretary	4,000
Administrative equipment	8,724
Administrative supplies	3,038
Administrative travel	4,600
Subtotal	42,462
Instructional:	
Instructional equipm[illegible]	19,850
Instructional supplies	2,500
Departmental equipment	10,400
Departmental supplies	15,014
Consultant services	8,500
Girl's athletics	8,200
Boy's athletics	11,000
Subtotal	75,464
Library:	
Media materials	9,250
Audio-visual equipment	6,340
Supplies, materials, and services	6,130
Subtotal	21,720
Food services:	
Equipment	7,500
Supplies, materials, and services	3,100
Subtotal	10,600
Transportation: Purchase of buses	24,000
Plant management:	
Equipment	1,880
Materials	3,047
Subtotal	4,927
Fringe benefits: Project employees	3,900
Total	183,073
Transportation:	
Bus driver's salaries	5,500

Operation of buses	6,150
Bus repair	2,350
Subtotal	14,000
Plant management:	
Custodial salary (part time)	4,000
Supplies, materials, and services	1,360
Equipment repair	200
Utilities	4,500
Subtotal	10,060
Total	223,141

INDIRECT COST

Indirect cost is based on the rate approved by the Office of the Inspector General. The indirect cost submitted is based on a hypothetical rate of 18 percent of the direct school operation cost.

Accountant technician	$9,000
School board secretary	622
Fringe benefits	1,403
Administrative supplies, materials, and services	2,140
Photocopier rental	3,000
Telephone	3,500
Postage	1,500
Advertising	2,000
Auditing	4,000
Legal services	2,500
School board travel and per diem	7,500
Consultant services and evaluation	2,000
Total	39,165

TOTAL FUNDS REQUESTED

Start-up funds	$182,973
School operation cost	227,141
Indirect cost	39,165
Total	449,279

Option II—Planning year, fiscal year 1980

Administration:	
Program development director	$22,000
Bookkeeper/secretary	9,000
Community representatives	4,752
Administrative equipment	4,362
Administrative supplies, materials and services	1,529
Consultant services	9,300
Telephone	1,500
Postage	350
Advertising	900
Photocopy rental	3,000
Audit	1,250

Legal services	2,500
Administrative travel	7,000
Subtotal	67,443
School board:	
Training	5,000
Meetings	840
Subtotal	5,840
Fringe benefits: Personnel	4,613
Total	77,896

SUBMITTED BY PYRAMID LAKE

1. 95-561: Funding of contract schools under Title xi, section 1129 (A) of Public Law 95-561 shall provide each affected school with notification of its approximate allotment at the end of the school year. This may not leave the school enough time for teachers contracts and planning for the new school year. Time for appeals and hearings.

2. 31h.54: The Agency superintendent of education or other agent as designated by the director shall be responsible for effecting and adjusting contracts with tribal operated schools. Contract schools need to be given the option on who to deal with, agency, area, or central office on a contract agreement.

3. How will new contract schools receive its appropriations for school operations if their is no past figures available? Needs procedures and entitlements for new schools?

4. Question on 31h.34 week and month of specified count week.

5. Need more detailed information on proposed plant out line especially for new schools.

6. 31h.90/31h9/ School Board Training. Who will do the training? Where will they be trained and how long?

7. New schools will need a means of long range planning beside on a year to year basis.

FRIED, FRANK, HARRIS, SHRIVER & KAMPELMAN,
Washington, D.C., June 25, 1979.

Hon. CARL D. PERKINS,
Chairman, Committee on Education and Labor, Rayburn House Office Building, Washington, D.C.

DEAR CONGRESSMAN PERKINS: The Pueblo of Laguna has authorized us to request that the enclosed comments on the proposed regulations under Title XI of the Education Amendments of 1978 should be included with the record of the oversight hearing held on June 15 , 1979.

Sincerely,

S. BOBO DEAN.

Enclosures.

FRIED, FRANK, HARRIS, SHRIVER & KAMPELMAN,
Washington, D.C., June 25, 1979.

Mr. RICK LAVIS,
Deputy Assistant Secretary/Indian Affairs, U.S. Department of the Interior, Washington, D.C.

DEAR MR. LAVIS: We have been authorized by our clients, the Pueblo of Laguna, to submit the following comments on the proposed regulations under Title XI of the Education Amendments of 1978.

The Pueblo of Laguna commends the Bureau for the uprecedented degree of tribal consultation which was involved in the preparation of the regulations. The statement of Bureau educational policy contained in proposed Part 31a soundly emphasizes that comprehensive educational services for Indians and Alaska Natives in accordance with tribal needs for cultural and economic well-being are the responsibility and goal of the federal government. However, the mission statement, paragraph 31a.3, should be strengthened to emphasize the special obligations toward Indians which the United States has undertaken. We recommend, therefore, that the first sentence of 31a.3 begin as follows:

Recognizing the special rights of Indian tribes and Alaska Native entities which have arisen from the historical relationships between them and the United States, the special duties and obligations which the United States has assumed toward them and their members and the unique government-to-government relationship of Indian tribes and Alaska Native villages as evidenced by the United States Constitution, United States Supreme Court decisions, treaties, federal statutes, and executive orders * * *.

We particularly commend the emphasis on the right of Indian tribes to govern their own affairs in matters relating to education. We also support the concept of providing educational services as close to an Indian student's home as possible, in a community school context, utilizing "culturally appropriate learining strategies that will reinforce, preserve and maintain Indian languages, cultures, and histories * * *." Such a program has long been a goal of the Pueblo and has not yet been fully realized in the schools which serve its children. The Pueblo also approves the increased role in the employment of teachers which was given to the Indian school boards. As noted below, however, certain clarifying changes in the proposed regulations are needed.

The Pueblo notes the major changes in the organizational structure of the Bureau's education program contained in proposed Parts 31b and 31g and hopes that these changes will contribute to improved educational services for Indian children. Certain key matters, however, need to be clarified in these proposed regulations.

It is imperative that the duties of those responsible for support services to the educational program be established in clear and specific detail. An obvious danger of the new structure is that vital support service needs of the schools will be given a low priority by BIA superintendents and area directors who will no longer have responsibility for education. These crucial procedures, therefore, should not be developed solely by the education director in consultation with BIA personnel, without tribal representation without formal publication and an opportunity for comment. These procedures, therefore, should be developed at once with full tribal involvement and should reflect the policy stated by the House Committee on Education and Labor in its report on Title XI that any failure to furnish necessary support for education programs be promptly remedied.

The Pueblo urges that the regulations governing educational personnel be implemented by the Bureau while insuring the continuation of education services to Indian children without disruption. The Pueblo recommends that section 31b be modified to make clear whether or not the education director will define the responsibilities of janitorial and other essential support personnel. The number of educators, however, clearly should be established locally, not be the education director. Section 31g.4 should make clear that the qualifications of special education personnel will be established in the Manual.

The Pueblo approves the attempt in Part 31h to establish an equitable basis for funding Bureau schools. One aspect of proposed Part 31h should be studied very carefully, however, to avoid a highly inequitable result. Sections 31h.37 and 31h.38 provide that funding may be delayed or withheld entirely from a BIA school if enrollment data and other required reports are not submitted on time or required records are not maintained. Notwithstanding the increased authority granted to Indian school boards by the new regulations, BIA schools (other than contract schools) will still be administered by federal employees who are responsible to the BIA Director of Indian Education Programs. Federal schools for Indian children should not be closed as a means of punishing federal employees for not getting their reports in on time.

Transportation funding should include special provision fo tthe additional cost of transportation for handicapped children. In addition, Section 31h.21 should provide for a regular, comprehensive annual review of all the weighted factors. A review should be made to determine the adequacy of the transportation formula based on experience. Moreover, the weights for handicapped children under Section 31h.12 should all be computed based on full-time attendance in view of the difficulty of maintaining adequate attendance records and the high cost of providing appropriate education programs for handicapped children.

The provision for payment in Section 31h.53(a) is grossly inadequate and would sharply reduce the funding now available to Bureau schools at the beginning of a school year. One of the most difficult problems encountered by contract schools has been delay in the transmittal of necessary funding. The present wording of Section 31h.53 might well spread this problem to all Bureau schools. The Pueblo recommends an initial apportionment of 75 percent with the adjustments due to final enrollment data to be made in the payment of the balance in three installments.

Implementation of Parts 31b, 31g, and 31h should be monitored very closely to ensure that these major changes do, indeed, result in an educational program which is more responsive to tribal needs and that the increased authority of the BIA Director of Indian Education Programs and the local BIA school superintendents is exercised in ways which promote the goals of tribal planning and management of education programs and improvement in the quality of the BIA schools.

Finally, it is imperative that the relationship between the regulations under Title XI and the existing regulations which govern tribal application for BIA education contracts under Public Law 93-638, 25 Code of Federal Regulations Part 271, should be clarified. Section 31h.54(a) designates agency superintendents of education or "another agent" designated by the BIA Education Director to be "responsible for effecting and adjusting contracts with tribally-operated schools." However, 25 C.F.R. Part 271 provides in detail the manner in which tribal organizations should prepare and submit applications for contracts or the renewal of contracts to operate BIA schools and limits the right of the Bureau to reject such contracts as required by Public Law 93-638. In addition, 25 C.F.R. Part 271 contains certain provisions which guarantee to tribal organizations funds to cover indirect costs of contract operations and the right to carry-over into a subsequent fiscal year savings from a 638 contract budget. Part 31h should be amended to ensure that tribal rights under Public Law 93-638 and 25 C.F.R. Part 271 are not curtailed and that the procedures for school contracting remain clear.

The Pueblo approves the strengthening of the regulations on student rights and responsibilities. In particular, the emphasis on the right to a meaningful education appropriate to student needs may serve as a valuable reminder to the Bureau that the primary goal of its educational program should be the education of Indian children.

Sincerely,

S. Bobo Dean.

Resolution of the Education Committee of the Navajo Tribal Council

Authorizing the Approval of the Public Law 95-561 Recommendations and Comments to the Federal Register, Vol. 44, No. 100, Tuesday, May 22, 1979, Proposed Rules governing Indian Education to be incorporated into the Final Regulations

Whereas:

1. By Resolution No. CJ-9-57, the Navajo Tribal Council has authorized the Education Committee to determine educational policies for the establishment, improvement, expansion and maintenance of a unified education system; and,

2. Promulgate, publish and enforce all legislation enacted by the Navajo Tribal Council concerning matters of Education; and,

3. Represent the Navajo Tribal Council on all matters pertaining to Education at the local, regional, state and federal governments; and,

4. The Education Committee through hearings and correspondence has amassed comments to be incorporated into the final regulations through its Educational entities, i.e., Navajo Area School Board Association (NASBA), Navajo Division of Education (NDOE), Navajo Tribal Administration, Bureau of Indian Affairs Area Office, respective community controlled schools, and other federal agencies affected by the rule; and,

5. The Education Committee through hearings and meetings has reviewed all proposed rules and their implications as appearing in the Federal Register, Volume 44, No. 100, Tuesday, May 22, 1979, Indian Education, and as submitted by the Navajo Educational entities and endorsed the attached Public Law 95-561 Comments (Exhibit A) to be incorporated into the final regulations—Proposed Rules governing Indian Education—The Bureau of Indian Affairs: Now therefore be it, *Resolved* that: 1. The Education Committee of the Navajo Tribal Council hereby requests that the comments attached as Exhibit A be acknowledged as the final proposed rules governing Indian Education—from the Navajo Tribe to be incorporated into the final regulations governing Indian Education—The Bureau of Indian Affairs under Public Law 95-561.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Education Committee of the Navajo Tribal Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 5 in favor and 0 opposed, this 13th day of June, 1979.

——— ———,

Chairman, Education Committee
of the Navajo Tribal Council.

EXHIBIT A

PART 31a—INDIAN EDUCATION POLICIES

Section 31.1 Purpose and Scope

The policies stated are to be followed by schools and educational programs administered by the Bureau of Indian Affairs. The consistency of language should be used throughout the sections to minimize contradictions and misinterpretation of the law.

Section 31a.2 Definitions

(1) "Local School Board"—The definition used needs tightening and not merely a chosen body either elected or appointed in accordance with the laws of the tribes and who should serve as members. The chosen body is finally given some power in exerting political influence on education matters deserves the conciseness of its exact being.

Section 31a.3 Mission Statement

The Navajo Tribe is stating this concern again because of its importance and could also be detrimental if its not understood by states providing public education for its Indian citizens. In Public Law 95-561 Part 31a Indian Education Policies, Section 3, Mission Statement as acknowledged in Section 2 and 3 of the Indian Self-Determination and Education Assistance Act (Public Law 93-638; 88 Stat. 2203; 25 U.S.C. 450 and 450A) and Section 5 of the Indian Child Welfare Act of 1978 (Public Law 95-608; 92 Stat. 3069; 25 U.S.C. 1901), it not to be misconstrued to relieve the state of any duty with respect to Indians being citizens of the state.

Section 31a.4 Policies

In keeping the language consistent with other sections it should be stated consultation with governing bodies of tribes and Alaska Native entities not affected tribes and Alaska Native Government activities.

(3) Changes in language recommended to read ensure the governing bodies of tribes and Alaska Natives entities fully exercise, etc.

(b) Student rights—To insert following customs and practices corporal punishments shall be at the discretion of the appropriate Indian tribe or Alaska Native village.

(c) Equity Funding—To insert following taking into account special and unique educational needs where they exist, etc.

(f) Religious Freedom—A change in wording is recommended to read as follows: Promote and respect the right to and of cultural practices and religious freedom for all students, at the discretion of affected tribes and Alaska Native entities consistent with the provisions, etc.

(h) Multilingual Education—To insert and to read as follows: including the development, production and use of instructional materials, etc.

(j) Tribal Educational Plans—To add following comprehensive education plans and development of Indian Education Divisions in states with substantial member of Indian students attending public schools supported by state funds.

(i) Student Assessment—To insert and read as follows: to provide accurate and culturally relevant assessment and evaluative instruments to measure student performances, etc.

(m) Recruitment of Indians—To read as follows: Develop or adopt relevant procedures to insure that qualified Indian and Alaska Native educators are recruited for educational positions.

(o) Community School Concept—The present allotment formula does not provide for this promotion and if this is to happen adequate funding are recommended for small schools.

(p) Education Close to Home—A change in wording to read as follows: a student elects or recommended to attend a school, etc.

TRANSFER OF INDIAN EDUCATION FUNCTIONS

The major criticism of this section in particular, but also other sections where the same situation occurs, is the absence of procedures for Tribal review and approval. This oversight of the intent of Public Law 93-638 is particularly evident when it comes to key decisions, either jointly or separately, by the Assistant Secretary for

Indian Affairs and the Director, Office of Indian Education. The following sections must have this review and approval function written in for the Tribes, to be completed within a reasonable timeframe, for Public Law 93-638 compatibility: Policy—§ 31b.2(b); Delegation of Authority—§ 31b.3; Redelegation of Authority; § 31b.4 (insert " or tribal governing body or its designee" at the end of the paragraph); Implementing procedures, § 31b.7(2)(1) (i) and (ii); Realignment of Area and Agency Offices, § 31b.8; and Develop and Issuance of Procedures, § 31b.9 and 10.

Under Policy (§ 31b.2), item (c) needs to be reworded into language understandable to non-Bureau individuals. Item (d) in this section needs clarification as to the manner and schedule for supervising education program operations. Under item (e) Area functions should be given the flexibility to develop innovative programs for the under and unserved Indian children and also under section § 31b.5, especially for vocational, special and bilingual education functions and programs. This responsibility should also be extended to the agency level for these education functions (i.e. vocational and bilingual and education, § 31b.6).

Under Implementing Procedures (§ 31b.7)(a)(2) the position description will need to be modified in terms of some framework and this needs specifying to make any sense out of this item. Also, in this section, under (b)(1)(iii) "Reflect Supervision" needs clarification as to what that exactly means in layman's language.

Area education functions (§ 31b.5) should also include responsibility for assuring accreditation of its Bureau schools through a combination of appropriate penalties for non-compliance and funding or other appropriate incentives for compliance.

25 CFR PART 31b—TRANSFER OF INDIAN EDUCATION FUNCTIONS

Recommendations of Navajo area education staff

Section 31b.1 Definitions—(a) "Early Childhood"—We recommend that the early childhood definition be from 0 to 5 and include kindergarten and delete kindergarten from the elementary section of the definition.

Section 31b.2 Policy—(e) Indian Education program functions to be performed * * * Navajo Area feels that it is up to the tribe as to what the functions of the Area Indian Education Office are.

Section 31b.5 Area Education Program Educations—Attached is the position paper on BIA Education Functions, Proposed Rules 25 CFR Part 31b. The functions are proposed may describe the functions for other areas, however, Navajo Area has additional functions, which are: Special Education under Public Law 94-142 (special provisions), Food Service including warehouse operations for distribution of food to the Albuquerque Area and Phoenix Area Offices, as well as giving services to the Navajo Area, we do liaison with the Navajo Tribe, USDA Food Service, Youth Conservation Corps development, and monitoring curriculum development. Peripheral dormitories will be under Area Office because of Public Law 874 and Johnson O'Malley funds to Bureau schools. The accreditation of schools will be a part of the Area Office functions.

Section 31b.6 Agency Education Programs Functions.—Peripheral dormitories should be deleted from the agencies and included under Area Education functions for Navajo Area.

Section 31b.7 Implementing Procedures.—The Navajo Area Food Service Program is the only food service program which serves more than one area by serving Navajo, Albuquerque, and Phoenix Areas. This program develops menus, monitors food preparation, oversees food distribution, and provides inservice training for these areas.

Specific documents attached.

POSITION PAPER ON THE FINANCIAL SYSTEM FOR EDUCATION

There is a concern regarding the financial management information system relating to the direct funding concept fostered by Public Law 95-561. The National committees have received input from the Navajo Area, Area Education and the local school administrators—these two levels of administration have expressed their concern relating to isolated schools, small schools, dormitories situated in peripheral areas, and the small contract schools. The concern has been:

(1) That there were no weights designed to compensate schools for their isolation. The problem was the term isolation was never defined, consequently, it was not properly interpreted.

(2) The transportation for day schools which is the basis of their collecting students at a school was not properly analyzed. The day schools deliver to and from schools the students enrolled in their schools; further, they provide clinic runs, extra curricular activity transportation, and also particiate in mission control in

providing transportation for staff for inservice workshops at the Agency and Area levels. The latter being considered, the travel limitation criteria set by the Navajo Area Division of Administration is immediately inapplicable because some of these necessary services fall in the least prioritized categories of the travel limitation criteria, consequently, these schools suffer a short fall in their travel budgets.

(3) The small schools not being identified within the bigger schools recognition for participating in sports, extended field trips, participation in National recognized activities, and with the activities scheduled for older students the small schools are not given the recognition for funds that will defray expenses for these type activities for the small schools to participate even in a spectator role.

(4) Because of the small enrollment, these schools are not eligible to have the various categorized curriculum such as bilingual education, special education, special experiences program, and special staff training, not readily available to them. These schools are not benefitting from the weights designed by the National committee on allotment factors.

(5) The dormitories that do not provide curriculum and instruction to their students will predictably experience low funding. These dormitories do provide homeliving, guidance, and in some cases, tutorial services to their students who are attending public schools, and there should be some weight factors designed for these dormitory services.

The Navajo Area had provided to the National committee some very realistic expenditures experienced by them in previous years and it is believed that the above was aptly addressed and should have been considered in the weight factors in formulating formula funding for small schools.

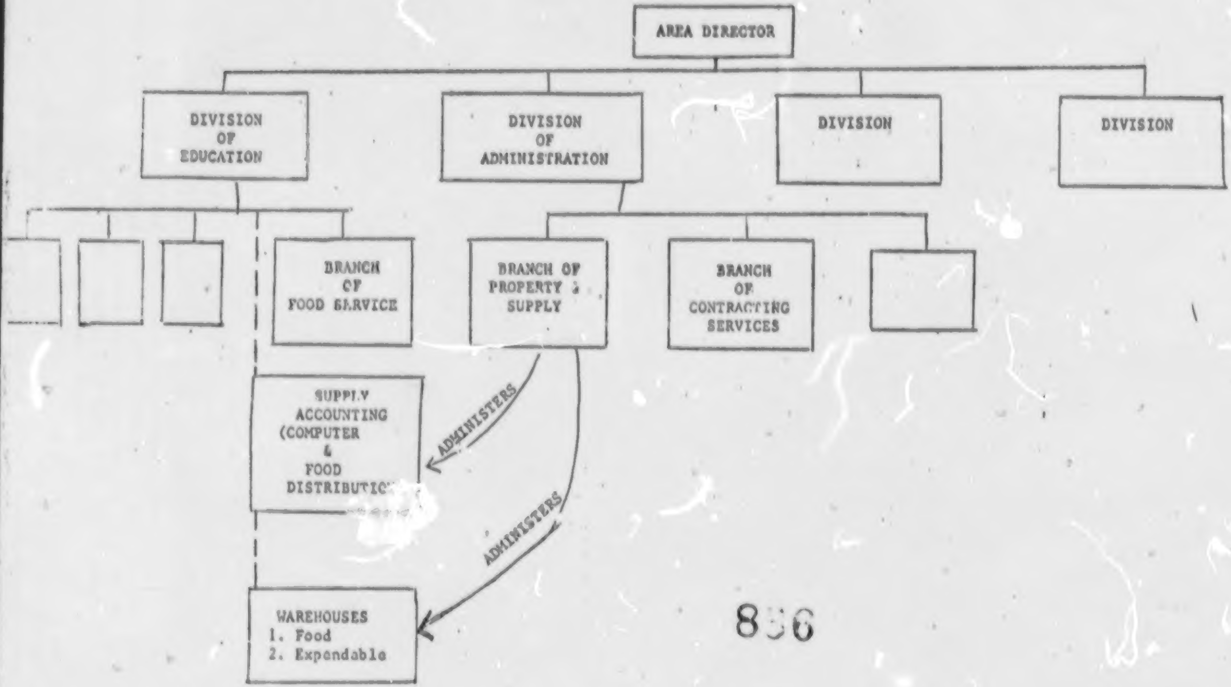
Historically, we have used 42 BIAM on the Financial Management System. It is believed that the Division of Administration has caused Education to comply with their needs and with their mandates rather than the reverse of meeting the needs of Education on behalf of their clientele, the student. We believe that in the future that a separate financial system be devised specifically for Education which would prevent the often misinterpretation of some of the program elements and components in other program activities. The financial management technicians in the Agencies were confused by some of these elements and components while taking the Financial Management, Property Management, and Fedstrip course provided by the Navajo Area Training Center.

If the information system was purely a financial system on education, these wouldn't be occurring. It is strongly recommended that the financial system be edited, monitored, and evaluated by the Navajo Area Education Central Office.

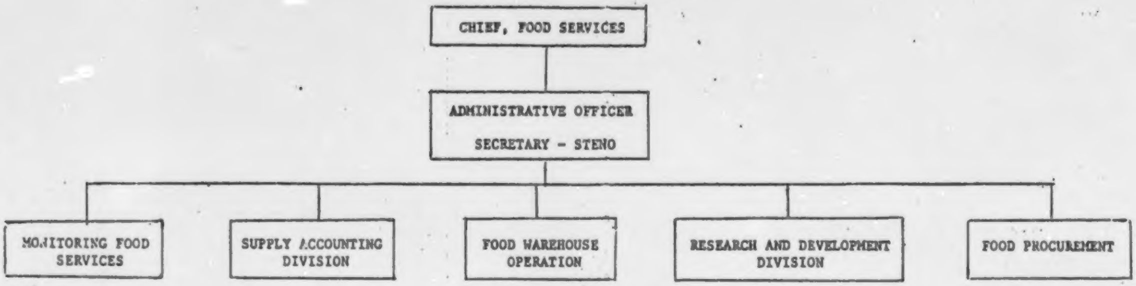
COMMENTS AND RECOMMENDATIONS

1. The Food Services program is currently undergoing an evaluation by Washington officials because of current inefficiencies and fragmentation of total program.
2. Currently, the food program is administered under two divisions—Education and Administration, and three branches—Food Service, Property and Supply, and Procurement.
3. Two education-funded portions, Supply accounting and the Warehouse, are administered under the Branch of Property and Supply.
4. Current operation is not defined in writing thereby creating chaos and pushing off of important duties from one branch to another.
5. Communications break down has resulted from fragmented operation resulting in gross deficiencies both in the Area and on the Agency-school level.
6. Secrecy of records has resulted from lack of communication.
7. Much food waste is in evidence both on Area and school levels.
8. Food inventories are not working efficiently, resulting in overstockage in the warehouse, then, over-issue, infestation and contamination of foods follows, which can cause serious problems on the field level.
9. With fragmentation, various procedures cannot be evaluated by any one branch (overstepping boundaries) thereby creating doubts, questions and assumptions concerning expenditures, efficiency and illegal activity.
10. Recommendation: The total food service operation be put under one Branch chief, with five operational sections headed by a section chief. Each section chief will be responsible to the Branch chief for smooth flow of each section resulting in an overall efficient operation. All monies, inventories, operation and procedures will be open for audit at any time by requesting officials. It is further recommended that the new branch be created and entitled, "Branch of Institutional Feeding and Food Management."

GAO - FOOD PROGRAM - TODAY


AREA DIRECTOR
DIVISION OF EDUCATION
DIVISION OF ADMINISTRATION
DIVISION
DIVISION
BRANCH OF FOOD SERVICE
BRANCH OF PROPERTY & SUPPLY
BRANCH OF CONTRACTING SERVICES
SUPPLY ACCOUNTING (COMPUTER & FOOD DISTRIBUTION
ADMINISTERS
ADMINISTERS
WAREHOUSES
1. Food
2. Expendable

FOOD PROGRAM PROPOSAL


CHIEF, FOOD SERVICES
ADMINISTRATIVE OFFICER
SECRETARY - STENO
MONITORING FOOD SERVICES
SUPPLY ACCOUNTING DIVISION
FOOD WAREHOUSE OPERATION
RESEARCH AND DEVELOPMENT DIVISION
FOOD PROCUREMENT

MONITORING FOOD SERVICES

STAFF:
4 Home Economists
1 Secretary

FUNCTIONS:
- Monitors school food service site
- Researches and developes or changes food service policies and procedures
- Conducts and develope food service staff training
- P. R. Personnel
- Liaison for food services by Federal and Non-Federal entities

SUPPLY ACCOUNTING DIVISION

STAFF:
Computer Staff
Office Staff
Secretarial Service

FUNCTIONS:
-Operation of computers for filling food requisitions
-Responsible for billing procedures

FOOD WAREHOUSE OPERATION

STAFF:
Warehouse Staff
Secretarial Service

FUNCTIONS:
- Receives, stores and issues food
- Security of food supplies

RESEARCH AND DEVELOPMENT DIVISION

STAFF:
1 Dietician
3 Quality Food Inspectors
1 Food Research Specialist

FUNCTIONS:
Dietician: -Prepares annual master menu
-Conducts nutrition training for schools
-Prepares special menus
Quality Food Inspectors:
-Assures quality food control at plants, in warehouse and in the field
Food Research Specialists
-Monitors student acceptability of foods
-Researches new foods on market
-Monitors fluctuating food prices
-Researches and developes best food sources

FOOD PROCUREMENT

STAFF:
1 Food Procurement Specialist
1 Secretary

FUNCTIONS:
-Works directly with Contracting Specialist (Admin.)
-Writes food specifications
-Monitors and evaluates food contracts
-Develops procurement procedures to take advantage of in-season foods and best prices
-Works closely with Food Research

25 CFR PART 31g EDUCATION PERSONNEL

Section 31g.4 Qualifications for Educators.—(a) Qualification related to positions. Throughout this section the SEA is regarded having the knowledge of whats educational relevant to or appropriate for its Indian citizens. This is not the fact. There is no mention of governing tribes to determine requirements for its professional educators or education operations of the Bureau in the event an Indian tribe is in control of education on their reservation. Another area that needs to be strongly emphasized is a requirement of educators to gain knowledge of their students appropriate language and culture and this does not mean just merely taking part in a school's pre-service not in-service training.

Section 31g.4 Qualification for Educators.—(b) Qualifications related to individuals. (2) All professional non-Indian educators are in no way to assert that their culture or language and academic preparation makes them superior to the students and parents with respect in tribal culture and language.

Section 31g.6 Appointment of Educators.—(a) Local School employees; (b) School supervisors; and (c) Agency education program employees.

The main concern in these sections is that there is no allowance for local school boards appeal. It's the superintendent and the director who may reverse the determination for good cause set out in writing to the school board. But who is to determine what is good cause especially in considering the BIA educational track record and in light of each tribal uniqueness.

(h) Education Couple Contracts.—We recommend this section be deleted because of its limitations on an individual's rights.

Section 31g.10 Conditions of employment of educators.—(g) Performance evaluation. Who will specifically do the evaluation on employees? We recommend 3 evaluations be the minimum on a yearly basis.

Section 31g.12 Leave System for Educators.—(i) Emergency Leave. Are we to determine that an emergency is the fault of the employee and what if the employee resigns as a result of the emergency? We recommend no salary deduction be made on any emergency leave used.

Section 31g.12 Leave System for Educators.—(2) Sick Leave. (iv) There are certain restrictions put on a patient, even if he is physically able, by a medicine man which we recommend warrants granting of additional sick leave.

Section 31g.12 Leave System for Educators.—(d) Education Leave. The section does not provide the incentive and is limited for educators desiring to pursue additional degrees or credits especially if on duty status upon approval of the agency school superintendents. We recommend education leave at the discretion of the employee if he/she is going to pursue an additional degree or credits especially if the Bureau is emphasizing qualified educators and programs.

Section 31g.13 Status quo employees in education positions.—(a) Status quo Employees. There is no mention of employees who elect not to have their positions converted and what will happen if there are no other education positions available? An additional option should be noted or be subjected to termination.

Section 31g.13 (a.1,2,3).—The regulations imply a first one in—last one out situation exist for Civil Service Personnel. In the event that the local school contracts a certain number of Civil Service Personnel as well as their own school personnel, any reduction of funds would result in the reduction of only those personnel hired by the local school board. We recommend that in the event of a reduction of funds, that an equal proportion of Civil Service Personnel as well as local School Board hired personnel be listed on an "eligible for reduction" list. Such "eligible for reduction" personnel reductions will then be up to the local School Board based upon their personnel merits and evaluations.

INDIAN EQUALIZATION PROGRAM

It was our impression that this section received the most attention during the Committee hearings. It is a large section, rather detailed and, most importantly, it determines the flow of funds. Most of the comments were generated by the contract schools rather than from the Bureau education officials. This observation reinforced the impression, mentioned more than once by the contract school representatives, that the Bureau schools in certain areas fared better than the contract schools. These differences will be referred to more specifically in the comments that follow.

A major concern centers upon the old Bureau tendency of "closed shop" decisions at the top (e.g. Assistant Secretary and Education Director levels) in such critical areas as formula revision and eligibility for additional funding under Johnson-O'Malley and Title IV-A (HEW). At every point in this and other sections of the regulations (e.g. Transfer of Education Functions) where the Assistant Secretary and/or Director, Office of Education, are making unilateral decisions, there should be added language including publication in the Federal Register and, keeping to the intention of Public Law 93-638, Tribal governing bodies review and approval before procedures can be changed and put into operation. In other sections of the regulations (e.g. Policies, § 31a.4), this consultation with Tribes is required, but in all cases, it needs to be more effective by including the review and approval authority rather than just consultation.

Another issue is the funding advantage the formula gives to the large Bureau dormitory schools compared with both small day schools and dormitories. Under the accompanying attached documentation, data shows that when current enrollment is used, the Navajo Area will be giving a funding incentive to the large boarding school and this contradicts both Tribal wishes and Bureau construction policy to educate children near their homes in small community schools. Peripheral dormitories also need the funding allowances to meet services not covered in the formula as indicated in this same documentation (e.g. handicap services, tutorial programs, high staff cost and inability to increase enrollment). As an incentive to encourage bilingual education in operation rather than in enrollment only, the definition should be specific to those schools either providing programs or with workable plans to provide bilingual programs that can be implemented within the school year and subsequently evaluated by an external agency. Rather than putting a grade ceiling on bilingual programs, the funding should go to those schools who can provide bilingual programs at any grade level and be able to show objective results of program effectiveness. Our concern is language revival and related family cohesion rather the family disunity that can result from either Navajo or English as second languages programs.

In the push to formulate and regulate, the important ingredient of flexibility is often overlooked and these proposed regulations are no exception. The nature of both limited school facilities, roads and adverse weather force some Navajo students to have to rely on a combination of Day school attendance during autumn and spring and residential school in the winter, yet the regulations make no provisions for funding the needs of these seasonal students. Considering the breadth, scope and unprecedented nature of this piece of legislation, there are bound to be unforseen circumstances requiring regulation modification. A flexible recommendation would be to keep the task force and review process active at least through the first year of implementation with an option for a further 6-12 month extension depending upon the results of the first year.

The disbursement of allotments to school under sections 31h.51 to 31h.54 are compatible with Bureau but not contract school fiscal situations. Bureau schools can obligate funds whereas contract schools must use the contract-credit system and any delay in processing the credit paper work will leave them without operational funds as they have no capital to fall back on. In view of these differences, sections 31h.52 and 31h.53 should apply to Bureau schools only; otherwise, the contract schools run a very real risk of being unable to operate for lack of funds. In place of the Quarter system, an initial and final payment system would enable the contract schools to have sufficient capital and assurance of funding to make Personnel contracts and run the schools on a stable and certain schedule. With respect to stability, the contract schools should be given a 40 percent advance on the first payment for the first year rather than the suggested 30 percent. This will enable them to pick up the extra funds for transportation costs resulting from the transition period. There should be an option to obtain advances from the second payment (such as the 10 percent just mentioned) to give the flexibility to meet the inevitable circumstances unforeseen in these regulations; the advance could easily be deducted from the second payment balance. Also essential to contract school stability is the assurance in writing under section 31h.54(b) that the Agency School Superintendent cannot adjust the contract (similar to the Bureau school situation in Part (a)) and that section 31h.55(a), should apply to Bureau schools only in order to avoid an appeal to the Agency School Superintendent over the authority of the Contract School Board. Similarly, the local fiscal agent should be determined by the Contract School Board rather than the Agency Superintendent.

Many day schools on the Navajo reservation do not have either the circular or linear routes envisioned under the transportation allotment and will therefore be more realistically compensated under an actual mileage traveled rather than the loaded school bus system. Also, in order to facilitate the sending of children to day schools, such as contract schools, a procedure used by the public school in New Mexico is recommended whereby parents are paid mileage to bring students to and from a bus route and their home. This would also be in line with Bureau schools which already receive money for taking students home; furthermore, the Bureau schools are not accountable for these monies and, in all fairness, neither should contract schools in the requirements which call for them to submit maps.

There was a consensus of opinion, with which we agree, that the formula encourage, through a 1.4 weighting, the placement of kindergarten children in dormitories. We do not want Navajo kindergarten children in dormitories and ask that the regulations be revised to ensure that this happen only where there is no reasonable alternative. Furthermore, fulltime kindergarten criteria should be reduced from the recommended 5 hrs. per day to 4 hours per day.

Under handicapped weightings, there is no separate weight for fulltime blind students. They should be specifically given the 3.0 weighting also awarded to fulltime deaf students.

It was neither the intent of Congress nor the intent of the Navajo Tribal Council that schools, Bureau, Public or Contract, should become student recruiters in order to enhance their funding. Penalties for such recruitment need to be developed and specified where students are recruited while currently enrolled in and attending another school.

A number of tribally controlled schools are classified as previously private under the Bureau system. The facilities maintenance funds provided under the formula for these schools is completely inadequate relative to their need and the allotment needs to be increased through separate provisions for securing the monies out of element 3500.

The Education Committee also endorsed the Contract School recommendation for blanket authorization for school boards to retain program income in their education programs rather than having to return it to the Navajo Area Director's Office (a situation unique to Navajo Area alone). With respect to Bureau education funding, the BIA needs to be prevented from transferring education funds to non-education BIA departments at the local and national levels. Any additional appropriation monies envisioned for implementing Public Law 95-561 should be actively sought by the BIA central office in Washington, D.C.

25 CFR PART 31h—INDIAN SCHOOL EQUALIZATION PROGRAM

Recommendation of school superintendents

Section 31h.12. Entitlement for Instructional Purposes.—There was concern that no provisions for tutorial and other special services are made in this section. It was the concensus that such funds must be included.

Subpart C—Formula Funding Administrative Procedures

Section 31h.32. Annual Computation of Average Daily Membership.—The definition that is used here is not the same as the one used in the beginning.

Section 31h.37. Conditions for Receipt of Allotments.—Provisions for receipt of allotments does not include the replacement of vehicles and the cost of leasing GSA vehicles. Such a provision must be included to alleviate these fixed costs.

There are no specific provisions for special funding allotments to be awarded to organizations desiring to start up new contract schools. There is a need to make provisions for such an allotment in the formula in order to encourage the trends of local community control.

Attached find recommendations and comments by the Navajo Area Task Force on Tribally Controlled Community Colleges and Navajo Community College concerning Proposed Rules 25 CFR Subpart A & B which was issued in the Federal Register, Volume 44, No. 100, Tuesday, May 22, 1979. The Navajo Area Task Force has met once on the Act and Proposed Rules and are much in agreement and support of the provisions with a few exceptions which are presented in the following.

DEFINITIONS

Academic year means the period of time established by a given institution for an academic study generally between the months of September and May which may include two semesters or three quarters but excluding summer terms.

Summer terms is the period of time generally between the months of June an August which may include two five-week sessions, one six-week session, one eight-week session or three summer quarters.

Section 33.8 Grants (d)(1) $4,000 per FTE may change taking into consideration but not limited to the forces of inflation which may greatly reduce the real value of funds over a period of years, or the isolation factor which may be different between institutions depending upon their respective locations.

Title II—Navajo Community College.—The Task Force supports separate appropriations for Navajo Community College under Title II of Public Law 95–471 guarding against any commingling of other funds historically expended by the Bureau of Indian Affairs for scholarships.

Navajo Community College has an on-going registration throughout the academic year, much of these programs are directed at fulfilling the immediate training needs of the Navajo Tribe. These cases are affected by the six week deadline for registration required by the provisions which may have an adverse effect on NCC's FTE count for funding purposes.

THE NAVAJO NATION,
Window Rock, Ariz.

MR. JACKSON: You are confirmed on two flights: TWA Flight No. 217, departs National at 2:30 p.m., arrives Albuquerque at 5:25 p.m.—and your original flight—American Airlines Flight No. 129, departs National at 8:55 p.m., arrives Albuquerque at 1:24 a.m.

CONSTRUCTION OF SCHOOL FACILITIES FOR INDIAN CHILDREN

SCHOOL CONSTRUCTION APPLICATIONS AND PROCEDURES

The proposed regulations for Bureau school construction applications and procedures also pertain to Public Law 95–561, Section 1125(C) requirements for the Secretary to publish the system used to establish school construction priorities. The notice also included the fiscal year 1980 ranking and one immediate correction required is that Torreon is in New Mexico, not Arizona. The major shortcoming of the procedures again reflects the ignoring of both Public Law 93–638 and the procedures themselves (item 3.(C)) with respect to "Tribal Choice" or, more specifically, the absence of specific procedures for Tribal review and approval of key issues and recommendations. The review and approval of tribal governing bodies, or their designees, is required in several places in addition to item 3.(C) (Effect on existing Indian rights); e.g. under Definitions, item (b) (1), (2) and (3), Application review and action (12, (a)), 13. Verification and ranking procedure (B) and 14. The evaluation team (14).

The Navajo Tribe has repeatedly stressed the need for shorter bus rides and still consider the 1 hour recommendation under item 2(b)(1) to be too long for the educational well being of their students, particularly the pre-senior high school ones.

There are contract schools other than those operated by Tribal organizations and Definition (b)(3)(d) needs to be expanded to include these. Also, Definition (b)(3)(f) "unhoused" should take into account specific characteristics of adequacy rather than just "availability" of facilities. If a nearby school itself is in poor condition the students could not be considered unhoused because these procedures only take account of the school's availability rather than its program quality or facility condition. The definition of school board (b)(3)(j) should be standardized with that used in other sections of Public Law 95–561.

Under "existing Indian Rights" (item 3(c)) no specific provisions are made for real opportunities to exercise "Tribal Choice" in these procedures and such procedures must be developed to give meaning to this intention.

Under Statement of Policy (item 4) subpart (a) there are no adequate vocational education programs on the Navajo Reservation and yet no school building incorporating this type of program has received any serious ranking since these procedures were first put into effect By the Voc. Ed need, all Navajo Students are unhoused and these procedures will not do anything to improve the facility construction to meet that need. This neglect needs to be remedied.

The policy to construct day schools should be strengthened beyond the "whenever possible" level by more dynamic specifications such as a plan, budget analysis for appropriation assessment of cost effectiveness and a firm road improvement schedule to be annually taken before the appropriation committees. Under the next item 4 (c) a detailed plan for sites and facility size based on service area should be developed by the Bureau into a master plan and updated annually for submission to the appropriation committees.

Priority for major repair and renovation (item 4. (d)) as stated could also become an excuse for not undertaking needed new construction and specific safeguards needs to be developed in this section to ensure that this does not happen.

Item 4 (e) should also include the engineering and environmental health conditions with the "distance to schools . . . available to such children" (e.g. age of building condition with respect to engineering building standards, life expectancy, etc.).

Under the contents of the application (item 8) all items are phrased as if every application was for a situation where a school already exists; e.g. there can be no average daily membership where no school exists, but where one is intended to be built for an unserved community/geographical area. Item 8(e)(3) requires guidelines for determining an attendance area so that it maybe described as requested here. The next item (4) should include an evaluation, by the Bureau, of the building condition and program quality (e.g. certified teachers, accredited programs, etc.) of each school on the list in the attendance area. If these schools either rank lower than the applicant or also contain "unhoused" students by the Bureau criteria, then the applicant's students should be declared unhoused independent of the distance to these schools. Distance is obviously too narrow a factor to be realistically used as a major/exclusive indicator of unhoused.

Tribal support of enrollment in another school should only be a requirement where Tribe's have a policy relating to this situation. The Navajo Tribe, does not at this time have such a policy and quite naturally so since attendance boundaries have never been set by its Tribal governing body. This contingency of applicability should also be a requirement under 8(e)(9).

The situation with respect to duplicate applications for construction under Public Law 81-815 (item 8(e)(6)) should be rephrased to state that such an application will prevent processing a Bureau application for construction only when funding for the Public Law 81-815 application precedes Bureau funding for the same applicant. This will prevent the current dilema whereby the Bureau will not process an application because the applicant is on the HEW priority list or HEW will not rank the applicant because it is on the bureau list. Both organizations may either take years to fund the construction of a ranked applicant or drop the applicant from their ranking (or reduce ranking to a level unlikely to become funded) so that being on the Priority list is no guarantee of funding. To be fair, the applicant should only be excluded from the ranking process when the other agency actually funds its application.

Under application review and action (item 12. (d)), the Facilities staff should also notify the Tribe as well as the applicant of the project's ranking; on the Bureau-wide list.

For verification and ranking procedures, the evaluation team should include a Tribal representative designated by the governing body or its designee, and funded by the Bureau, through contracting resources, for both salary and expenses.

"Availability" under 13. (b) should be changed to conform with earlier recommendation including evaluations of "adequacy".

There appears to be a need for comments on the following problems in the formula or regulations for implementing the formula.

1. Peripheral dormitories are seriously under-funded by the formula.

(a) Their enrollment is controlled by the public school principals so they cannot attempt to survive by increasing it.

(b) They are providing tutorial programs not covered by formula.

(c) They are providing handicap services not covered by formula.

(d) They are loaded down with high cost staff, for their size.

2. There is no allowance for economies of scale in the formula. The largest boarding schools, already well staffed and programmed, are the biggest "winners" under the formula. And the smallest day schools, and the Dormitories, neither of which have much diversification in funding base under the formula, are the biggest "losers".

3. There appears to be a deficiency in the small school formula, for schools with enrollments way below 50.

4. The current definition of Bilingual appears to be too lose. Almost all schools classified all students in K-3 as "Bilingual" in data, although there are few actual bilingual instruction programs being offered in the area under BIA funding.

5. The "base" group of 4-8 appears to ignore the current Bureau policy of providing special programming for students in grades 7-8 or 6-8 in "Junior High" or "Middle School" programs. This special programming is more like Senior High School programs than it is like 4-6 programs.

6. There is no provision for seasonal shifts of students from Day School to Boarding status, and back again, as is done in several Navajo Area Boarding Schools.

7. There are no provisions for site specific adjustments in school fundings, although this is implied in language of the law.

(a) The law calls for a "post differential" pay scale, but the formula has no provision for funding it. Min State standards/BIA Standard Funding re: Fed $ in Local Publ. Schl.

(b) The first factor the law lists is "isolation of the school", and the only isolation factor in formula is for Alaska.

8. The definition of "loaded bus miles" favors schools with loup routes and discriminates against those with linear routes. This is not a controllable factor.

9. Kindergarten factors in the formula appear to change, or oppose, current Bureau policy with regard to this age group.

(a) The weight of 1.4 for dorm care appears to be an incentive to introduce these students into dormitories. This is against current policy.

(b) The hours for a "full time" Kindergartner are too long for current BIA practice—should be reduced to 4.

(c) The instructional weight does not reflect current BIA policy of restricting group size to 20 students, by comparison with 1-3 in which group sizes are restricted to 30.

10. Handicap weightings do not include several factors which appear to be required for equity.

(a) There is no separate weight for blind students. They are classed as "visually handicapped" and given .25 which is not enough for an appropriate treatment program. There should be provisions for a full time Blind program.

(b) There should be provisions for part-time multiply handicapped treatment programs, to allow for BEH recommended "mainstreaming", where possible.

(c) There should be some additional funding for Handicapped students in residential care settings, particularly at the peripheral Dorms.

(d) There should be a provision for the "home" school of a handicapped student to "claim" him or her under the formula, even though the student is in a residential care program elsewhere, when the home school is responsible for paying for the residential care tuition.

11. The present limit on age for Bilingual student programs appears needless, and inappropriate.

(a) It may be illegal under the Lau vs. Nichols decision.

(b) It classifies the problem of bilingual instructional needs as an "age group" problem. Bilingual instruction should be provided to students of any age, who need it. Funds should go to schools which are delivering programs, not just to schools with non-native-English-speaking children in K-3.

12. The formula encourages school personnel to become "bounty hunters". The regulations should require development of enforceable attendance boundaries, with provisions for placement of students outside these for special programs and benefits, and penalties for "recruitment" of students already enrolled and attending another school.

13. Provisions for ADM count for Residential care are unclear. They are impacted by the definition of a resident, which requires the student to be in the dorm 4 days and 4 nights during the count weeks to be counted as a resident, while students only need to be in school one day to be counted in instructional ADM. Both count processes should be the same.

14. The definition of a "local school board" is deficient. It does not identify the body with its purpose, and could define the Tribal Council, or the PAC, as written.

15. There is no provision for public accountability by the Bureau in revision of the formula, or in making recommendations regarding contract school eligibility for additional funding under JO'M and Title IV-A LEA. These activities should be subject to publication in the Federal Register, Congressional review, etc.

16. The present quarterly allotment procedure is unrealistic in terms of the time it takes the Bureau to do its paperwork. It reflects the way it has always been done, but may not really be necessary at all.

(a) It retains control of local school cash flow in the central office.

(b) It provides for authorizations to be issued during the first week of the quarter for which the funds are to be used. This does not allow time for the issuance of a requisition by the Ed. Supt. to the Contracting Officer, the issuance of a contract modification with a revised budget submission, and issuance of an authorization to the Finance Office for an increase in the contract letter of credit, the revision of the letter of credit, and draw-down of funds, all of which must be done in order, for such funds to be conveyed to contract schools for actual obligation and use.

17. No facilities maintenance funds are available to previously private schools, except through the formula. The formula amount is a pittance compared with the need. Separate provisions need to be made to secure such funds, out of 3,500, for these schools.

18. Blanket authorization needs to be made for school boards to use program income from meal sales, rental of quarters, etc. in the local education program. At present, only Navajo Area takes these funds back from the schools, and puts them into a slush fund in the Area Director's office. No other Area does this.

OTHER CONCERNS

There are persistent rumors that Commissioner Seneca is attempting to "strip" the education budget, in anticipation of the transfer of BIA Education to the new Dept. of Education. A reported 11 million has been ordered transferred out of Education's request for fiscal year 1980 to other BIA Departments. An additional 40 million that Appropriations reports invited for 561 implementation was not asked for. And Education has been given to June 15 to obligate all funds for fiscal year 1979, with whatever is not obligated to be transferred to other departments for use before the end of the year.

Location Code # · Institution** Name (Abrev.) 000-00	ADM 0,000	Weighted Stunt Units Basic 0,000.0	Sm Sch Adjstmt 00.0	Rsdntl Guidnce 000.0	Total $ 000,000	ADM 0,000	Weighted Student Units Basic 0,000.0	Sm Sch Adjstmt 00.0	Bilnnl Studnts 000.0	Hndcpd Studnts 000.0	Total $ 000,000	TRANSPORTATION Day Stdnt Total 000,000	Brdg Stdnt Total 000,000	TOTALS FORMULA## $ Amount 0,000,000	FY 79 $ Amount 0,000,000	GAIN/LOSS +-Funds 000,000	+-% .cc
Column Number	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Dormitories	✓				✓								✓	✓	✓		
N34-26 Magdalena	245	314.35			565,830								25,088	595,918	682,108	- 86,190	.12
N36-25 Winslow	185	231.25			416,250								40,200	456,450	449,000	- 7,300	.01
N34-05 Huerfano	122.5	162.88			293,184								[illegible]	299,192	353,000	- 53,808	.152
N36-29 Holbrook	185	281.25			506,250								46,8[illegible]	553,050	616,830	- 63,780	.103
N33-14 Richfield	MISSING																
N32-03 Aztec	111	138.75			249,750								22,848	277,598	330,661	- 53,063	.160
N36-20 Snowflake	MISSING																
N33-05 Flagstaff	148	185		2	336,600								35,520	377,598	603,600	- 226,480	.375
	1036			2	2,367,864								171,464	2,559,806	3,035,259	- 475,453	.157
PERCENTAGE SHARE IN TOTAL BUDGET				.001	.925								.067				

TULSA INDIAN YOUTH COUNCIL,
June 12, 1979.

Mr. **JOE DUPRIS,**
Executive Director, Coalition of Indian-Controlled School Boards, Washington, D.C.

DEAR JOE: Enclosed is a letter to Rep. Carl Perkins with my comments about the proposed OIE technical assistance/training centers. If you will please present this to him when the testimony is being given, I would appreciate it very, very much.

May I hear from you at your earliest convenience about how the hearing went?

Many thanks.

Sincerely,

DONNA RHODES, *Chairman, Board of Directors.*

Enclosure.

TULSA INDIAN YOUTH COUNCIL,
June 12, 1979.

Hon. **CARL D. PERKINS,**
Chairman, Committee on Education and Labor, Subcommittee on Elementary, Secondary, and Vocational Education, Rayburn House Office Building, Washington, D.C.

DEAR MR. PERKINS: I have only a brief presentation today to express concerns about the Technical Assistance Resource Centers that are presently being formulated by the Office of Indian Education.

Not to make light of the situation, but perhaps I can best explain my feelings in story form.

Once upon a time, in 1972, a law—92-318—was passed regarding Indian Education (Title IV); and an advisory council was formed to make recommendations to the Commissioner of Education in the Department of Health, Education, and Welfare. As time passed, there were some changes and amendments to the law when it came time for re-authorization and refunding—such as cutting Title IV, Part E, i.e., dissemination of information and technical assistance, and replacing them with regional centers to be called Technical Assistance Resource Centers.

Our Indian people questioned the forming of such centers with such pertinent queries as—

(1) Who will operate the centers? States education departments? Universities?

(2) Will there be Indian preference in staffing?

(3) What types of training/technical assistance will be offered?

(4) Where will the centers be located?

(5) Who will have priority for their services, new grantees or old grantees? Or will it be on a first-come, first-serve basis?

(6) What about rules and regulations? There have been none set up so far. The Office of Indian Education has mentioned "request for proposals" (RFP), which means no input from the local Indian communities across the country.

(7) Will this mean less staffing for the Office of Indian Education? Or will it mean that they can monitor the programs more than they are presently doing?

Yes, there were many questions asked when the National Advisory Council on Indian Education technical assistance committee met to discuss the situation that is almost already upon us. Many people traveled great distances to attend this meeting and to ask questions and make recommendations. But no one was there who could answer their questions—or to hear their recommendations. It was apparent that there was a lack of communication—from the people who purport to offer us this service. Many of the troubles of Indian education stem from limited communication as it is. Will this continue to be the case?

In the closing of this story, will this plan open the centers to benefit our people? If so, how soon can we expect training/technical assistance? Or will it be just another fairy tale to pass on with the rest of our legends, as many of us are beginning to suspect?

Soon, will there be no more programs to meet the special educational needs of our Indian children—who still have one of the highest drop-out rates among all students (despite the remarkable strides that have been made), to say nothing of coming nowhere near graduating our share of doctors, lawyers, nurses, educators, engineers and other professionals for our nation, the United States of America?

I am a homemaker/mother (of three) who cares about their education and the future of this country—as I hope they will when they have families of their own.

Thank you very much for giving me the opportunity to express my concerns—and those of many, many other Indian parents across the country.

Sincerely yours,

Mrs. SPENCER RHODES, *Chairman.*

COALITION OF INDIAN CONTROLLED SCHOOL BOARDS,
Denver, Colo., April 27, 1979.

DEAR FELLOW CONTRACT SCHOOL MEMBERS: On April 23, 1979, I received a copy of the proposed Indian Education Equalization Program as produced by the Task Force on Allotment Formula, who was given the responsibility to proposed rules and regulations for governing the allocations of funds for the education of Indian children in BIA operated and tribally operated contract schools. Since it is very unlikely that I will be attending the caucus meeting for Contract Schools scheduled for May 8th and 9th I have taken the time to review, question, comment, and make recommendations for the task force's finished product.

This review does not presently reflect the outlook of the Wind River Indian Education Association, Inc. (WRIEA) but instead reflects the testimony of one school administrator from a contract school. The review will be presented to the WRIEA at a board meeting scheduled on Wednesday, May 2nd. If the WRIEA chooses to make any changes in the recommendations they will be reported at the caucus meeting.

In brief, the enclosed report reflects concerns in regards to (1) issues effecting contract schools, (2) implementation of the Indian Education Equalization Program, and (3) proposed additions and changes to the proposed program. Comments from contract school members are sincerely welcomed and will assist the Coalition of Indian Controlled School Boards in replying to the task force's proposed rules.

Presently, I see many problems in regards to the formula funding proposition as is written. They include (1) the impact on contract schools, and (2) the problems of formula funding requirements in other educational settings. It is an attempt to minimize political power in obtainment of funds but may prove to be a "political fact." It may prove to be the first attempt in establishing a nationalistic form for funding education programs. No one knows the implications and ramifications.

Public Law 95-561 addresses itself to the need for increased dollars to meet the higher cost of supplying basic education programs for Indian children. Yet, I fear the formula funding will be sued to justify constrains in spending. Hopefully, my fear is unwarranted.

I would again express my strong enthusiasm for Public Law 95-561 and the attempt by Congress to provide a better opportunity for Indian people to exercise their right of self-determination in the education of their children. However, as often is the case, the rules and regulations that are developed and implemented may intrude upon the intent of the legislation.

It may be wise for all contract school members to study the recommendations from the task forces and join together in their response so that the Public Law 95-561 theme of local control for Indian Education does not loose its impact.

Respectfully,

PAUL CANNON,
Director of Education,
Wyoming Indian High School.

Review of the "Framework for the Development of Educational-Residential Standards for Public Law 95-561."

The outline for the Developement of Educational-Residential Standards for Public Law 95-561 appears to be comprehensive and in tune with congressional mandates. It may be presumptuous to make any critical evaluation until the framework is further developed and reflects implementation standards. Nevertheless, there are a few concerns which can be and should be addressed.

First, from a local school administrator's point of view, it is frightening to think that only a framework has been developed and published publicly during the last four months. Once again, added pressure may be placed on the chief executive to abide by new guidelines, rules, and regulations developed at a late date.

According to the Task Force No. 3 Action Plan, dated April 11, 1979, the task force's final review and approval of their recommendations for schools enrolling Indian children as outlined in Public Law 95-561 will not take place until sometime after July 27, 1979. It is uncertain as to when their finished product will be submitted to the central office. Although the task force has ample time in meeting the scheduled deadline as stated in the law, it appears that they must make more progress during the next three months than was made in the first three months.

Again, it will be the schools who may suffer from any prolonged delay. It is hoped that the contract schools will have ample time to make comments and recommendations prior to the completion and issuance of the proposed standards.

Second, although the framework is very general in nature, this administrator is uncertain about the order arrangement of administrative and instructional services. It is uncertain as to whether the list of services represents a prioratized, chronological, or merely an indentification of standards.

Under administrative services, policies, practices, and procedures are designated as 1.1. Whereas Philosophy-Climate of the School appears at 1.9. The school philosophy should precede all other items. The philosophy is the foundation on which administrative and instructional services are built. It is a base for planning implementation, evaluation and modification! It will reflect the needs and desires of the community and of its students. Policies, practices and procedures are intertwined with the school philosophy. Nevertheless, the school philosophy must be considered foremost since it is based on outlooks and outlooks set the stage for policies and services.

Third, it may be a little premature but the framework did not address itself to administrative or instructional goals and objectives. The philosophy is put into effect by means of the goals and the objectives Established school services rest upon (1) a stated philosophy (2) relevant goals and (3) specific objectives.

Hopefully, the educational principles and standards that are developed will address these comments.

PAUL CANNON,
Director of Education,
Wyoming Indian High School.

CONCERN: APPORTIONMENT OF ENTITLEMENTS TO SCHOOLS

Section: 31h.54.—The Agency Superintendent of Education or another agent as designated by the Director shall be responsible for effecting and adjusting contracts with tribally operated schools.

Question. Why is it that contract schools are required to deal with the Agency Superintendent of Education or another designated agent during the process of formulating a contract agreement document whereas Bureau operated schools deal directly with the Director of Indian Education Programs for the Bureau of Indian Affairs?

Comment. Some members of the governing body for Wyoming Indian High School would prefer dealing with the central office in establishing their entitlement for school operations. The Billings Area office in the past year waited for final authorization from the Central office before entering into a final contract. With all due respect, this middle management contact procedure could be eliminated.

Recommendation. It is proposed that contract schools be given the option as to whether they choose to deal with the agency, area, or central office in formulating a contract agreement.

Question. Why is there so much overhead allotted to Central Area, and Agency offices?

Comment. The Office of Management and Budget has suggested that the BIA should reduce its overhead costs "as the overall level of Self-Determination Act contracting increases" (letter from James McIntyre, Jr. Director of the Office of Management and Budget, to Cecil D. Andrews, Secretary of the Interior—April 13, 1978).

Recommendation. That overhead allotments as they effect contract schools be reduced at the central, area, and agency offices. The resolution which was passed by members of the Coalition of Indian Controlled School Boards, Inc. during its 1978 annual meeting be given further consideration in establishing guidelines for the Indian Education Equalization program. Resolution: Now, Therefore, be it resolved that the Coalition of Indian Controlled School Boards, strongly recommends that the budget line items for BIA education administration and formula funds pursuant to Section 1128 of Title XI of H.R. 15 be separated from each other when reported to the executive and legislative branches of the federal government during the appropriations process.

CONCERN: REVIEW OF CONTRACT SCHOOLS SUPPLEMENTAL FUNDS

Section: 31h.22.—Before the end of formula phase-in, the Director shall consider the impact on equalization of supplemental funds from the Johnson-O'Malley Act and under Title IV of Indian Education Act, available to contract schools but not to BIA schools, and make recommendations for appropriate adjustments.

Question. Why should there be an adjustment to the funds received by contract schools who receive supplemental funds under Title IV or Johnson-O'Malley? Don't you have to consider (1) how this money is spent? (2) whether they are providing programs that would not otherwise be sponsored? Whether this will hinder the incentive to pursue such grant awards? What criteria will one use in making the adjustment?

Comment. Appropriations of programs through Johnson-O'Malley and Title IV funds give schools an opportunity to provide educational services that would otherwise go untouched. For example, a homebound program is sponsored by JOM funds at Wyoming Indian High School. This program allows high school aged students, who are not in a position to attend school, the opportunity to continue their high school education. A teacher is appointed to work with these students in their own homes. This year, two homebound students will receive their high school diploma. If JOM funds are tampered with, this program may be in jeopardy.

Recommendation. It is necessary for Resolution No. 2 which was approved at the December 8, 1978 Coalition of Indian Controlled School Boards' meeting to be put into effect. Resolution: Now, therefore, be it resolved that the Coalition of Indian Controlled School Boards strongly recommends that other funds not intended for basic support, received by contract schools (involving Title VII, Title I, JOM, Title IV) be categorically excluded in the computation of the allotment formula since their funds are not basic support.

Question. Will contract schools receive support funds for fiscal year 1980?

Comment. According to the legislative history, section titled Education Amendments of 1978, Page 306, overhead costs is to be factored into the formula, based on the figure negotiated between the Secretary and the contract school board under existing procedures. Although there is a difference between "support funds" and "overhead costs", this ruling could infer a transfer of indirect cost to funding allocated by utilizing the formula. The task force report does not discuss this point in any detail.

Recommendation. Support funds for contract schools during fiscal year 1980 should be awarded according to the rate established for each school by the Office of the Inspector General.

CONCERN: COMPUTATION OF SCHOOL ENTITLEMENTS

Section: 31h16.—This base value shall be computed annually by the Director by dividing the total of all weighted student units (WSU) generated by all approved schools into the total amount appropriated for distribution through the Indian School Equalization Formula.

Question. Shouldn't the formula be utilized in determining a total appropriation request? If so, how will this be reflected in contract awards for fiscal year 1980.

Comment. According to Section 1128 of Public Law 95-561, the formula should be used in determining the minimum annual amount of funds necessary to sustain each contract school. Thus it is interpreted that the formula should establish and reflect appropriation request. However, for fiscal year 1980, it appears that the formula will be used to divide the total appropriation already approved among contract and BIA schools. This action does not comply with the intent of the law. It was hoped that the formula funding concept, with consideration given to other variables, would assist contract schools, in overcoming the many funding problems that Wyoming Indian High School has had.

In the past, the BIA Area office in Billings has attempted to tell this contract applicant how much funding they would receive without considering local education need. The contract negotiations between the Wind River Indian Education Association and Billings Area office has always ended with Association members feeling that the BIA was impeding upon their right of exercising self-determination.

It was anticipated the Public Law 95-561 would assist in eliminating many such problems. However, the formula funding as it applies for fiscal year 1980 will continue to justify the BIA efforts to dictate to schools as to their contract award funding level (for further reference, see "Indian Self-Determination and Tribal Sovereignty: An Analysis of Recent Federal Indian Policy" by Michael P. Gross).

Recommendation. Contract schools should join together in appealing the proposed utilization of the formula in establishing contract awards for fiscal year 1980.

CONCERN: FUTURE CONSIDERATIONS FOR WEIGHTED PROGRAMS

Section: 31h.20—The Director shall consider the feasibility of incorporating other factors into the weighted pupil formula including:

(a) A rural isolation adjustment;

(b) A native language maintenance factor;
(c) A cultural heritage factor;
(d) A staff cost adjustment;
(e) A cost-of-living adjustment;
(f) A gifted and talented student factor, and
(g) An Early childhood development factor.

Question. Is it possible to extend the list of "other factor" into the weighted pupil formula?

Comment. Although contract schools may wish to abide by the state requirements as they pertain to educational standards, they may not be in a position to obtain state-accreditation due to their classification as a private and/or public school. In order to gain accreditation status, the school may have to seek membership with an organization such as the North Central Association of Colleges and Schools. Such participation may reflect an added cost in meeting the standards and requirements of such an accreditating agency.

Since some health services are not directly related to the instructional program, it may be best to classify such services under the "other factor" category. Consideration should be given to establishing appropriations for school nurse's salary, transportation of students to a health clinic in cases of emergencies, nurse's supplies, equipment, and materials.

Recommendation. It is proposed that the "other factor" category include the cost incurred by contract schools who wish to pursue membership with an accrediting agency.

It is recommended that the "other factor" classification include health services provided to students.

Question. How do you define "rural isolation" in the "other factor" classification?

Comment. It would seem that all contract schools on reservations could fit into this category.

Recommendation. All contract schools located on Indian Reservations be classified under the "rural isolation" category.

Question. Shouldn't curriculum offered at the high school level be a weighted variable?

Comment. Cost of courses delivered at the high school level vary immensely. Any high school which offers industrial arts, careers, or vocational education classes will incur a high expense for the delivery of these programs.

In order to meet accreditation association standards, a high school must offer a minimum number of classes which in turn impacts the curriculum plan for the school.

Recommendation. The BIA give further consideration in classifying curriculum design as an "other factor."

CONCERN: ENTITLEMENT FOR INSTRUCTIONAL PURPOSES

Question. Will the weighted student unit factor reflect realistic differences in basic programs?

Comment. Although grades 9–12 is given a base weight of 1.30, this weight does not actually reflect the added expenses needed in operating a small rural high school. In Wyoming the per pupil expenditure for secondary schools is in most cases 50 to 75 percent higher than elementary schools (check the Wyoming Public School Fund Accounting and Reporting Statistical Report 1977–78). Using this data, it is obvious that the proposed unit may not reflect normal cost for school operation.

Public elementary schools on the Wind River Reservation have a higher per pupil expenditure for the general fund category than Wyoming Indian High School. According to the state statistics, the situation should be reversed with Wyoming Indian High School having the greater expenditure.

Secondary contract high schools do not want to compete against elementary contract schools for existing funds. Appropriation request must be made to meet the needs of all schools at all levels.

Recommendation. Current per pupil expenditures as they relate to the level of education should be given future consideration. The devised unit should reflect expenditures for educating Indian students in a contract school.

CONCERN: CONDITION OF ELIGIBILITY FOR FUNDING

Question. If the ADM student count for a school is higher in October 1979 than the student count of February 1979, will the school receive additional funds? If it is lower, will fund be reduced? If there is an increase where the funds come from?

Comment. It appears that the intent of the proposal is to modify contract awards when necessary. For example, if the school has an ADM count of 145 students in February, 1980 and an ADM count of 130 in the second month of the next school year, it seems as though a reduction may be made on the entitlement which was based on the 145 count. If this is a correct interpretation of the task force recommendation, it is uncertain as to what this will do to school morale and stability when funds are lessened for a school during the ongoing school year.

Recommendation. Further consideration should be given to this section of the report.

Question. How will a new contract school receive its appropriations for school operation if figures cannot be supplied in regards to past Average Daily Membership?

Comment. Nowhere in the recommendations is there mention of allocation to contract schools who are just starting up. If an Indian tribe and/or organization is awarded a contract, there must be another means besides ADM measurements to determine what is a fair and just appropriation for school planning and operations.

Recommendation. It is proposed that the BIA solicit response from all contract schools and the Coalition of Indian Controlled School Beards in establishing allotment procedures and entitlements for new schools.

CONCERN: SUBSTITUTION OF A COUNT WEEK

Section: 31h.34.—A school may petition the Director to substitute another week in the same month for the specified count week if it can be established that to use the specified count week would result in grossly inaccurate student counts. Where tribal ceremonial days are known in advance, such a petition shall be submitted in advance of the determined count week.

Question. How easy can a school substitute another week for reporting purposes if the first week of each month is not a valid time for analysis purposes?

Comment. The Indian lifestyle on a reservation demands a great deal of fluctuation in obtaining accurate student count. Many Indian ceremonies can be predicted to take place at a certain time. Other activities cannot. For example, when a death occurs on the reservation, several students are likely to be absent from school for three or four days in order to comfort or assist a morning family. If a student is needed at home due to an illness in the family or work to be done, he/she may be absent from school two to three weeks.

Recommendation. Student count requirements should permit consideration for important Indian activities and occasions that are unexpected and not formerly scheduled.

CONCERN: LOCAL EDUCATIONAL FINANCIAL PLAN

Question. What kind of financial plan is demanded?

Comment. The elements of the local educational financial plan are vague and do not give school administrators much guidance as to the make-up of the plan. The information as described in the report give inferences to a Management Information System such as the Planning, Programming, Budgeting System which was operational during the Johnson administration.

Recommendation. It is suggested that the BIA supply contract schools with more detailed information concerning the proposed plan.

CONCERN: ALLOCATION FOR MAINTENANCE AND MINOR REPAIR FUND

Section 31h.112.—(a) Interim Maintenance and Minor Repair funds shall be allocated to all Bureau operated and contract schools based on the number of square feet of floor space used for the school's educational program, for student residence and for support facilities. Specifically excluded from the computation shall be staff quarters.

(b) Square footage figures used in determining school allocations shall be taken from the facilities inventory maintained by the Division of Facilities Engineering.

(c) In those cases, such as contract schools, where square footage figures are not now available, it shall be the responsibility of the Division of Facilities Engineering to collect the information no later than October 1, 1979.

(d) Schools in Alaska shall receive a 25 percent cost adjustment increase in the computation of their allocation.

Question. What are the reasons for stipulating square feet as a criteria in determining the funding level for maintenance of school building? What considerations are to be given to (1) building age, (2) condition, and (3) maintenance determined costs?

Comment. In determining the funding level for interim maintenance and minor repair, no mention was given to the consideration of maintaining all school property that relates to instruction. Many instructional activities take place outside of the buildings but on school owned land. Activities such as athletics require maintenance of the outside facility.

In the legislative history section titled Education Amendment of 1978, Public Law 95-561, the committees confirmed the fact that maintenance cost vary between schools in the same geographic regions. It is doubtful as to whether the square footage criteria allows for the necessary fluctuation.

Recommendation. The BIA should solicit data from the contract schools that reflect present and future cost for facility maintenance. This information should be used in (1) establishing appropriation testimony in obtaining funds for school plant upkeep and (2) developing a realistic criteria for such a cost item.

CONCERN: ALLOCATION OF TRANSPORTATION FUNDS

Question. How will schools be awarded funds for transportation services that involve field trips and extracurricular activities?

Comment. The proposal does not mention any allocation of transportation funds as they relate to school sponsored field trip or extracurricular activities. For example, transportation arrangements have to be made for students who are members of an athletic team. This includes transportation home after a practice session and transportation to and from other schools where the scheduled athletic event is held.

Recommendation. The scope for transportation funds should be extended to include all transportation items.

CONCERN: ESTABLISHMENT OF A SCHOOL BOARD TRAINING FUND CATEGORICAL/FIRST PRIORITY FOR TRAINING

Section: 31h.90/31h.91.—"* * * Each school board shall receive a flat sum, initially for fiscal year 1980 to be set at $5,000, with Alaska and Off-reservation boarding school boards to receive an additional 25 percent of this flat sum amount per annum/An urgent and priority need for school board training is assistance in developing of local educational financial plans as authorized by Public Law 95-561, Section 1129(b).

Question. Why was $5,000 stipulated as the amount for school board training? Is it feasible that this amount will meet the needs of all school board members? Should priority be given to the financial plan in school board training?

Comment. This recommendation is a step in the right direction in providing the necessary funds for training which has been needed for a long time. $5,000 would appear to be an adequate amount. However, it may not be enough to cover the cost of training as stipulated by the Task Force. It is debatable as to whether the priority in training should be given to the "financial plan." This is something that contract schools should discuss during the caucus to be held on May 8th and 9th.

Recommendation. A discretionary fund should be established for added cost that may occur because of the recommended training requirement.

CONCERN: ALLOTMENT FOR IN-SERVICE TRAINING

Question. Is it possible to provide an allotment for in-service training of staff?

Comment. In-service education is vital for the professional growth of all teachers. This is especially true for teachers who are on staff at reservation isolated schools. It is foreseeable that schools may have to minimize the number of in-service programs in order to remain within the constraints of the funding formula.

Recommendation. It is recommended that an allotment be made available to schools under the Indian Education Equalization Program which would permit all teachers an opportunity to attend training programs sponsored by various agencies (school BIA, state, or other educational agencies).

CONCERN: IMPLEMENTATION OF PROGRAM REQUIREMENTS

Overview. "It is the intent of the Bureau to provide an opportunity for most Bureau operated or funded schools to begin operations budgeting in fiscal year 1980 without any phase-in adjustment * * *"

Question. What effect will the "no phase-in" adjustment have upon those schools who will be required to facilitate the implementation of formula funding for fiscal year 1980?

Comment. An allowance of three years has been suggested before all schools are required to abide by the Indian Education Equalization Program requirements.

However, the stress placed upon most schools to comply will cause foreseeable anxiety for administrators and teachers. Not much time is permitted before the start of the next school year and this lack of time may be a severe factor that limits full compliance. Stability for staffing may be a problem, since there are no assurances that all staff members will receive contracts for the next school year.

Recommendation. The BIA should use a "pilot study" approach in implementing the requirements of the program.

Question. How will the implementation of the Indian Education Equalization Program effect the ability to do long range planning?

Comment. It appears as though the financial plan is to act as a tool to assist school with future education development. However, it is feared that the formula funding recommendation may intrude upon the school to consider multi-year planning. If a school has to use current ADM counts as a guide in estimating appropriations, funds may not be available in developing other educational programs or student services unless a school administrator chooses to seek funds through alternate sources.

Normally other sources demand competition and does not assure the funding for the desired program.

Recommendation. Research and development should be included in the "other factor" category.

Question. Will administrators be faced with a greater workload in complying with the formulated regulations?

Comment. Schools will have more input into the establishment of their contract award. This is an important aspect of Public Law 95-561. At the same time, it appears as though the amount of information to be compiled and the reports to be written will increase. The requirements to be implemented should consider the present functions of a school administrator and the added responsibility that will be placed on his shoulders.

Recommendation. The BIA develop implementation requirements that are appropriate and considerate of a school administrator's workload.

CONCERN: ENTITLEMENTS FOR SMALL SCHOOLS

Question. In the establishment of the add-on weighted pupil figures for small schools, why was 100 ADM chosen as the cut-off point for special entitlements of small schools? Is this an appropriate cut-off mark?

Comment. It is feasible that a school with an ADM count of 110 may spend as much as a school with an ADM of 95.

Recommendation. Further consideration be given to the cut off mark of special entitlements. It is suggested that a "degree of difference" variable be built into the equation, allowing other small schools with an ADM count of over 100 to be eligible for this entitlement.

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